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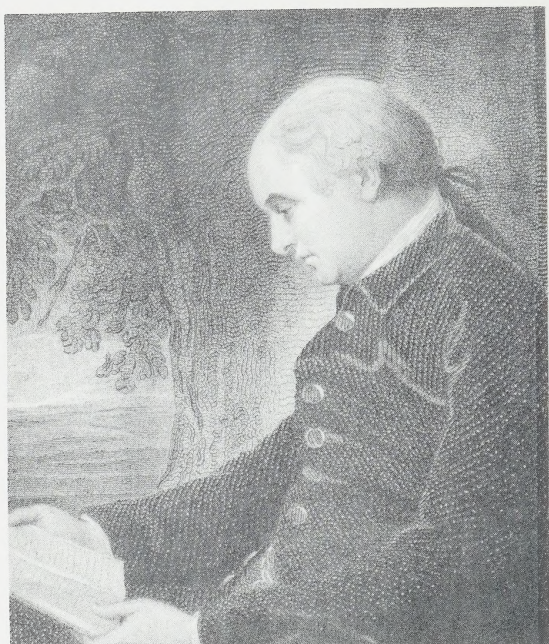
THE 3rd DUKE OF RICHMOND



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CHARLES DUKE OF RICHMOND,

K.G. F.R. & A.S.

*Late a Vice-President of the Society  
for the Encouragement of  
Arts, Manufactures and Commerce*

*Drawn and Engraved by W<sup>m</sup> Evans, from an original Picture  
by Romney in the Possession of the present Duke of Richmond.*



THE 3rd DUKE OF RICHMOND  
A STUDY  
IN EARLY C ANADIAN HISTORY  
BY  
LAWRENCE MONTAGUE LANDE

Montreal  
1956

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## CONTENTS

	Page
Preface	1
Chap. I      Antecedents and Relations	7
Chap. II     The Canada Papers (An early Chapter on the conversion of French Canada's currency)	15
Chap. III    Politics	53
Chap. IV    The Journal of 1766	72
Chap. V     A Zeal for Freedom	90
Appendix	101



## PREFACE

In hitherto published histories of Canada, little or no credit has been given to a personality not only outstanding in importance to Canadian history, but one who exercised a considerable influence upon the liberalism of his day in his own country; in Canada, and even in the United States - Charles Lennox, 3rd duke of Richmond.

Guy Carleton, later Lord Dorchester, Canada's early master-builder, owed his position in great measure to the insistence and influence of the subject of this essay. It is interesting here to note that Guy Carleton was recommended to act as military tutor to the young duke of Richmond by General James Wolfe who, in a letter to his (Wolfe's) mother in 1753 wrote -

"The Duke wants some skilful man to travel with him \*\*\* through the Low Countries and into Lorraine. I have proposed my friend Carleton." \*

Evidently the Duke never forgot the qualities of his tutor, indeed this is confirmed in Carleton's own hand who writing from Quebec the 17th of January 1767 to the Rt. Hon. Henry Conway, one of his Majesty's principal Secretaries of State, (who by marriage was related to the Duke of Richmond) says in his letter -

"As it was you, Sir, who first desired, by the Duke of Richmond I would take this Command." \*

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\* See Appendix, page 103 and 108.

The aftermath of the war with France culminating in the Treaty of Paris 1763, left England burdened with an overwhelming debt. As usual after a long-drawn-out war, the government of any country is apt to be changed. The merchant interests in England clamoured for the overthrow of Pitt, and the Whig Group under the Rockingham administration including Conway and Richmond, took over.

The Liberalism of the Whig party was the seed which germinated into the Quebec Act of 1774, and it was Richmond and Carleton who were in a great measure responsible for its fruition.

The true importance of the Quebec Act was not confined to Canada. A new principle of Empire was established, a principle which confirmed the fact that French Canadians could be British without becoming English. It has been said that the British Commonwealth of Nations is an outgrowth of the Quebec Act. Here is what Lord Acton called a higher species of political organism and a greater achievement in civilized life than the older system of a national state.\* Furthermore in the actual recognition of Roman Catholicism in Canada, there was a forecast of an ending of religious hatred and persecution which did not come in England until the Reform Bill of 1829. The new order in Canada had to maintain itself by tolerance. Just as the well-being of an individual depends upon a total unity of personality notwithstanding the diversity and difference in make up, so too a country where in R. Coupland's words on the Quebec Act, "the unity of the whole is all the deeper for the diversity of its parts, and --- on fidelity to the old, deep loyalties of local or provincial or national life, and only indeed on that sure foundation, can be built if men are wise and patient, a broader and more generous communion of human fellowship and service."

\* This is the basis indeed, upon which rests the organization of the United Nations to-day.



But there were years of opposition to the Quebec Act before it came into being. On the 21st of May 1767, the Duke of Richmond moved in the House of Lords "a plan for a Civil Government at Quebec". It was delivered to Lord Northington, at that time Lord Chancellor, for his opinion - "who never thought more on the subject".

Accordingly, on the 2nd of June 1767, the Duke of Richmond made three motions:

"One, a resolution that there ought to be a Civil Government established in Canada; others implied censure on the neglect and were aimed at Lord Northington, etc."

The liberalism of the Duke towards Roman Catholics is emphatically stated in a letter to the Marquis of Rockingham in 1780 when a proposal was made in Parliament to repeal the Acts in favour of the Roman Catholics -

"My mind is made up never to consent to that measure but to oppose it. ---- I do despair of the State, I never should despair of it against any combination of foreign foes, but I do despair seeing the domestic enemies it has and their power ----- . If the nation can so tamely bear all it has borne, and the evident loss of their own liberty without stirring and will submit to be led by Scotch fanatics (against Roman Catholics) to the tune of the bagpipe, - set Newgate loose, and burn London, turning against the best friends of liberty, and condemning them to its worse enemies, such a nation cannot be saved. I mean to go no more to London this year and probably never to Parliament again, but in every situation of life my warmest affection (for liberty) will ever make me show myself."

Here was a man who had he been at the helm of the British Government might well have averted the

break resulting in the separation of the thirteen American Colonies; and literally the whole face of subsequent world history would have been changed.

To quote from his letter to his Chief, the Marquis of Rockingham in 1777 beyond question proves this point.

"It is said, and I believe truly, that this war has already destroyed 30,000 Americans and 10,000 English; it has cost us fifteen million, and will cost us as many more, in articles furnished and not brought to account, though we should make peace to-morrow. You will very properly ask me whether I see any prospect of good from a change? To that I answer, much will depend upon circumstances and events."

"For my part, I cannot think the condition of the British Empire bettered by one part of its forces having lost several thousand men in butchering as many more of those we vainly wish to call our subjects; nor can I think that any victories, or any submission can secure to us the possession of a country we have so unpardonably injured." \* But yet I know that if our troops have success, the nation will be ready to go on with another campaign, and it will only be if our troops fail we shall feel the impracticability, absurdity, and wickedness of our present proceedings. But although I am sensible how much good or bad news will affect the feelings of men at the opening of the Session, I do not think it ought to affect our proceedings, being convinced that this war was originally unjust, that its continuance is ruinous, and that even success would be dangerous. We must continue to show our abhorrence and detestation of it. Whether we should do so by actual opposition, or by secession, is a question. But it is high time it were decided. As I think you will be glad

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\* The italics are mine.

to collect the opinion of your friends upon that subject, I am ready to give you mine. I believe that a general and total secession of all parts of opposition, with strong reasons offered to the King or the public, might have a good effect."

There is a romantic side to this page of history which cannot fail to be of interest. The sister of the 3rd duke of Richmond was the beautiful Lady Sarah Lennox who was courted and jilted by King George the Third. This same Lady Sarah, later as Lady Napier had four sons each of whom in his own field played a prominent part in the annals of service to Britain.

A close family relation of the 3rd duke of Richmond was Henry Seymour Conway who was then Leader of the House of Commons (1765) and who was a strong advocate for the freedom of the American colonies. He also participated with Richmond in the conversion of French colonial currency. Chapter II entitled, The Canada Papers, is concerned with this subject. The documents here for the first time made public are part of the Duke of Richmond Papers now in the possession of the author.

The nephew of the 3rd duke was the great Parliamentarian, Charles James Fox. Another nephew eventually became Governor General of Canada and who, incidentally, died from the bite of a rabid fox. It is safe to presume that the appointment of that nephew - the 4th duke of Richmond - as Governor General of Canada in 1819, was at least in part due to the eminence of the 3rd duke.

Indeed there is so much colour around the family life of the 3rd duke of Richmond that it should have a place in this disquisition.



*Lenox 3<sup>rd</sup> Duke of Richmond.*





James 2.<sup>us</sup> D.G. Ang: Sco: Fra: et Hib: Rex.  
E Lutterell fē: Cum Privilegio Regis. E Cooper



*Louise Dutchesse of Portsmouth*

*P. Lely Eques pinxit*

*A. Blooteling exc.*

## CHAPTER I

### ANTECEDENTS & RELATIONS

The first Duke of Richmond (1672-1723) was the illegitimate son of Charles II and the Duchess of Portsmouth. In the year 1675 Charles II bestowed upon this child out of wedlock the titles of Charles duke of Richmond, earl of March, and baron Settrington. This Charles on whom his father, the king, also bestowed the sur-name of Lennox, was the son of the celebrated Louise de Querouaille, duchess of Portsmouth. Nell Gwynne, celebrated actress of 17th Century England, and also a mistress of Charles II, owed some of her popularity to the disgust inspired by her rival Louise de Querouaille, and to the fact that while the French woman was a Catholic, she was a Protestant. It is well known that once Nell Gwynne, seeing the carriage of her rival passing through the streets of London, remarked, "Here comes the great whore of France".

The second duke of Richmond (1701-1750) added to the titles he inherited from his father that of duke of Aubigny in France, to which he succeeded in 1734 on the death of his grand-mother, the duchess of Portsmouth. His marriage to Lady Sarah Cadogan, daughter of Marlborough's favourite general, William, Earl Cadogan, was a romantic affair. "Their union was a bargain to cancel a gambling debt between the parents, and the young Lord March was brought from college, the lady from the nursery, for the ceremony. The bride was amazed and silent, but the bridegroom exclaimed, "Surely you are not going to marry me to that dowdy?" Married he was, however, and his tutor instantly carried him off to the Continent. Lady Sarah went back to her mother. Three years afterwards Lord

March returned from his travels an accomplished gentleman, but having such a disagreeable recollection of his wife that he avoided home, and repaired on the first night of his arrival to the theatre. There he saw a lady of so fine an appearance that he asked who she was. "The reigning toast, the beautiful Lady March". He hastened to claim her, and they lived together so affectionately, that one year after his decease (August 25, 1751) she died of grief". Thus writes her grandson.

The Duke of Richmond had by this lady twelve children, the seventh of whom, Charles, the present Duke we are discussing, succeeded him in his titles. Three of the daughters deserve special notice. The eldest, Lady Georgina Caroline Lennox, made a runaway match with Mr. Henry Fox (afterwards Lord Holland), and her second surviving son by him was the celebrated statesman Charles James Fox. She was herself created Baroness Holland in 1762. The Duke's sixth child and second daughter who lived to maturity, Lady Emilia Lennox, married James, Earl of Kildare, afterwards Duke of Leinster, and became the mother of the unfortunate Lord Edward Fitzgerald, the "Irish Rebel".\* The Duke of Richmond's eleventh child and seventh daughter, Lady Sarah Lennox, 1745-1826, inherited her mother's beauty and it was she with whom George III fell in love and contemplated marriage. However, George's mother had other plans for her son's wife, and so had Lady Sarah Lennox when there was a suggestion that she might become the King's mistress. Unlike her great-great-grandmother, the duchess of Portsmouth, this time love would not bow to a king --

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\* This might account somewhat for the 3rd Duke's affection for Ireland.





Mr. J. B. de la Cruz.

THE END OF THE WORLD.



Walker & Woodroffe, ph. sc.

*Lady Sarah Napier.*

for Lady Sarah Lennox married a Sir Thomas Bunbury, from whom she was divorced by Act of Parliament, May 14, 1776. She then married the Hon. George Napier sixth son of the 5th Lord Napier and by him had four sons, all of whom served their country well. The eldest, Conqueror of Scinde, Sir Charles Napier (1782-1855) achieved in India one of the most brilliant and amazing victories in military history. On February 15, 1843, with 2800 men he won a decisive victory at Miani India over 30,000 strong. In this battle it is said generals fought side-by-side with privates.

His brother, Sir George Thomas Napier (1784-1855) served with distinction under Moore and Wellington in the Peninsula. The third brother, Sir William Francis Patrick Napier (1785-1860) won renown as a soldier and military historian. The youngest brother, Henry Edward Napier (1789-1853) served in the navy during the Napoleonic wars, retired as a Captain and wrote a learned Florentine history.

Such were the fruits of the tree of Richmond when they burgeoned without benefit of Royal favour. From the "Memoirs of The Reign of King George the Third", by Horace Walpole, edited by Sir Denis Le Marchant, Bart., in 1845, we get the following information about this sister of the 3rd duke of Richmond.

"While the attention of mankind hung on the negotiation (with France), the King's messengers were suddenly sent forth to all Privy Councillors to meet at one o'clock at St. James's, July 8th, on urgent and important business. The business itself was an absolute secret. Everybody concluded that so solemn and unusual a summons to the Council was to give fuller sanction to peace. How great was the general surprise when they heard his Majesty had convened this assembly to notify his intended marriage with the Princess of Mecklenberg Strelitz! A resolution taken and conducted with so much mystery, that till that hour perhaps not six

men in England knew such a princess existed.

It has been mentioned with what aversion the Princess Dowager (George the Third's mother) had opposed a marriage projected by the late king between his heir apparent and a very accomplished Princess of Brunswick. A wife for her son, not chosen by herself nor obliged to her, by no means suited the views of the Princess. Could she have chained up his body, as she fettered his mind, it is probable she would have preferred his remaining single. A mistress would have been more tremendous than a wife. The next brother, the Duke of York, was not equally tractable, had expressed little reverence for his mother, and much antipathy to her favourite. If the King should die and leave even an infant, a minority did not deprive the Princess of all prospect of protracting her rule.

But there had happened circumstances still more pressing, more alarming. The King was fallen in love with Lady Sarah Lenox, sister of the Duke of Richmond; a very young lady of the most blooming beauty, and shining with all the graces of unaffected, but animated nature. What concurred to make her formidable to the mother and Favourite, was, her being under the tutelage of Mr. Fox, her eldest sister's<sup>(1)</sup> husband; and in truth, she and her family spared no assiduity to fix the young monarch's heart. And though Fox would probably not have been scrupulous or delicate on the terms of cementing that union, the King's overtures were so encouraging, that Fox's views extended even to placing the young lady on the throne. Early in the winter, the King told Lady Susan Strangways, ( 2 ) Mr. Fox's niece, and

- 
- (1) Lady Caroline Lenox, eldest daughter of Charles second Duke of Richmond, married to Henry Fox, paymaster of the Forces.
- (2) Eldest daughter of Stephen Fox, Earl of Ilchester, by the sole daughter and heiress of Mr. Strangways Horner, whose name he assumed.



the confidant of Lady Sarah, that he hoped she (Lady Susan) would not go out of town soon. She said, she should. "But," replied the King, "you will return in summer, for the coronation?" Lady Susan answered, "I do not know; I hope so." "But," said the King again, "they talk of a wedding. There have been many proposals; but I think an English match would do better than a foreign one. Pray, tell Lady Sarah Lenox I say so." The next time Lady Sarah went to Court (and her family took care that should not be seldom) the King said, "he hoped Lady Susan had told her his last conversation."

The Junto was not blind to these whispers and dialogues. Lady Bute was instructed to endeavour to place herself in the circle, and prevent them. And the Princess Augusta marked her observation of what was going forward to Lady Sarah herself, laughing in her face, and trying to affront her. But Fox was not to be so rebuffed. Though he went himself to bathe in the sea (possibly to disguise his intrigues), he left Lady Sarah at Holland House, (1) where she appeared every morning in a field close to the great road (where the King passed on horseback) in the fancied habit of a shepherdess, making hay.

Such mutual propensity fixed the resolution of the Princess. One Colonel Graeme was despatched in the most private manner as a traveller, and vested with no character, to visit various little Protestant Courts, and make report of the qualifications of the several unmarried Princesses. Beauty, and still less, talents, were not, it is likely, the first object of his instructions. On the testimony of this man, the golden apple was given to the Princess of Mecklenburg; and the marriage precipitately concluded. The ambassador was too remarkable not to be farther mentioned. This Graeme, then, was a notorious Jacobite, and had been engaged in the late rebellion. On a visit he made to

---

(1) Holland House, beyond Kensington, the seat of the Earls of Warwick and Holland; now of Henry Fox, Lord Holland.

Scotland, his native country, after this embassy, David Hume, the historian, said to him, "Colonel Graeme, I congratulate you, on having exchanged the dangerous employment of making Kings for the more lucrative province of making Queens."

So complete was the King's deference to the will of his mother, that he blindly accepted the bride she had chosen for him; though, to the very day of the council, he carried on his courtship to Lady Sarah; and she did not doubt of receiving the crown from him, till she heard the public declaration of its being designed for another. Yet, in confirmation of the trust he had reposed in Lady Susan Strangways, himself appointed Lady Sarah to be one of the bridesmaids to the Queen. Yet Lord Bute's friends affected to give another turn to the story; and insisted that the King had never thought of Lady Sarah but for his mistress. All, they affirmed, he had said to Lady Susan was, to bid her ask Lady Sarah if she should like a place in the family of the new Queen; that she had accepted it; and that the King had destined her to be Mistress of the Robes. Her surprise and disappointment, however, were too strongly marked to make this legend credible. Lady Susan adhered to the truth of what she had reported, in various examinations by her father and uncle. And the resentment Lady Sarah expressed, and which caused, as the Court said, her not being placed about the new Queen, was proof enough on which side the truth lay. The Junto persuaded the King she was a bad young woman; but if she was, what hindered her becoming his mistress? Was it criminal to propose being his wife rather than his mistress? And what became of the King's boasted piety, if he intended to place his mistress about his wife? Some coquet attempts, which Lady Sarah afterwards made to recover his notice, and her stooping to bear the Queen's train as bridesmaid, did her more prejudice than all that was invented against her. Pique and extreme youth might excuse both; and her soon after preferring a clergyman's son to several great matches, gave evidence that ambition was not a



*Sc: Joshua Reynolds. Pinxt*

*S. W. Reynolds. Sculp<sup>r</sup>*

THE RT HON. C. J. FOX.



rooted passion in her.

In my (Walpole's) opinion, the King had thought of her as a wife; but wanted resolution to oppose his mother and Lord Bute. Fortunately, no doubt, in this instance; for the daughter of a subject, and the sister-in-law of so ambitious and exceptionable a man as Fox, would probably have been productive of most serious consequences. To avoid returning to this topic, I will only remember, that during the wedding-service, on mention of Abraham and Sarah, the King could not conceal his confusion. And the day following when everybody was presented to the Queen, Lord Westmoreland, old and dimsighted, seeing Lady Sarah in the rich habit of a bridesmaid, mistook her for Queen, and was going to kneel and kiss her hand."

Charles James Fox, who became one of England's great Parliamentarians, was the son of the 3rd duke of Richmond's older sister Caroline Lennox. Unfortunately, in his early years Charles Fox was an inveterate gambler. At one time (1774) his father, Lord Holland, had to raise £ 140,000 to pay his son's gambling debts. For years Charles Fox lived in pecuniary embarrassment, and during his later years when he had given up gamblers (or shall we say when gamblers had given him up for he had nothing to gamble with) he was supported by the contributions of wealthy friends and relations who in 1793 formed a fund of £ 70,000 for his benefit. One can be sure that the Duke of Richmond came to his nephew's aid more than once. For they were both allied to each other more than by ties of blood. Their political views were very much alike and they worked together on their principles of advanced liberalism under the Rockingham administration.



"The parliamentary session (in London) of 1766 opened most inauspiciously; suffering and discontent were rife - even in the three kingdoms. ----- In order to regain popularity, the cabinet caused several measures to be taken, favourable to colonial trade; and obtained from France a liquidation of the paper obligations to Canada, which had remained in abeyance ever since the war of conquest."

From F.X. Garneau's  
History of Canada.

## CHAPTER II

### THE CANADA PAPERS

#### An Early Chapter on the Conversion of French Canada's Currency

The 3rd duke of Richmond succeeded to the peerage in 1750. In 1765 he was appointed British Ambassador extraordinary to Paris and in that capacity he had a great deal to do with bringing the final settlement between France and England on the then delicate problem of the liquidation of the Canada Paper, that is for the most part the liquidation of the French paper money in Canada at that time.

Again from the "Memoires of the Reign of George the Third" Horace Walpole tells us what part the Duke of Richmond played in the negotiation towards the liquidation of the Canada paper.

"There was much more difficulty about the Duke of Richmond. He had entirely broken with the late Ministers, and attached himself to the Duke of Cumberland. The arrangement, however, had been made without any suitable provision of his Grace. At last he was offered the place of Cofferer. He said modestly that he knew he had not the same pretensions to the first posts as the other young noblemen of his own rank, since he had not suffered like them, had not engaged with them in opposition, and consequently had not the same merit with the party. He owned, however, that he wished for an active place in business. I persuaded him not to accept Cofferer, and assured him I would not rest till I saw him placed in a situation suitable to his rank and talents. I kept my word;

and as the Duke of Cumberland had dropped a hint of making Lord Hertford Lord Lieutenant of Ireland, and of sending the Duke Ambassador to Paris, I pursued that idea, though the Duke wished rather to be employed at home; till, on Lord Hertford's nomination to Ireland, I pushed Mr. Conway so warmly that he obtained the embassy for the Duke of Richmond. Mr. Conway had had more difficulty in succeeding for Lord Hertford, whose conduct, in not taking part with his brother and his wife's nephew, the Duke of Grafton, had given universal disgust to the party. Richmond was indeed the only steady acquisition the Ministers made.

.....The Duke of Richmond, though he had concurred in the Peace, wanted no alacrity to enforce the terms of it. He had had little or no connection with the late Administration, had never been favourably looked on at Court, had no predilection for Lord Bute, and now entered with warmth into alliance with the Ministers. Though possessed of the Dukedom of Aubigné, he was far from having any partiality to France: and having naturally a high and national spirit, he was ready to hold as firm a language as the Administration could choose to authorize. In truth, his friends apprehended that he would be more likely to embroil the Courts than to relax in following his instructions. Yet young, inexperienced, and high-souled as he was, no man could conduct himself with more prudence and temper. Though he negotiated with obstinacy, he bore the flippancy and evasions of the Duc de Choiseul\* with admirable patience, neither betraying the honour of the Crown, nor exposing it to any unwarrantable contestations. In the short period of his embassy he performed an essential service by his resolution, quickness, industry, and perseverance. It is almost sufficient to say, that he settled one point of his negotiation and was unwelcome to that Court; a proof

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\* See Appendix, page 117.

that he neither temporized too far, nor was overreached by men of larger experience. On his way to Paris he passed purposely by Dunkirk. The Duke of Cumberland had disapproved of that visit. "My Lord," said the Prince, "Dunkirk is not worth going to war for: if you do not visit it, you may say it is destroyed; you cannot after seeing it with your own eyes." This implied that his Royal Highness was convinced France did not mean to destroy it. As I had arrived at Paris before the Duke of Richmond, I had learnt the desperate situation of their finances, and was witness to the disturbances occasioned to their Government by the active spirit of their Parliaments. I had written to Mr. Conway on these grounds, to advise their authorizing the Duke to talk big to the French Court, who, from the cause I have mentioned, were less in a situation than we were to recommence war. Mr. Conway heartily approved my views. The Duke had more doubts, but yielded to my reasons when he came over and found the soundness of my intelligence. The measure succeeded to my expectation. The Duc de Choiseul consented at last to settle the affair of the Canada Bills. Our merchants at home had blundered in their calculation, and asked less for themselves than they were entitled to. Sir John Lambert, an English banker at Paris, pointed out the error to the Duke, who, with amazing quickness, himself discovered a method of obtaining, within twelve thousand pounds, a full indemnification for them. The French Court yielded to this new demand. I persuaded the Duke to conclude the negotiation without any new transaction with our merchants at home, lest the readiness of the French should cool; and I urged him to ratify the agreement on the authority of three letters from Mr. Conway, who pressed to finish the bargain, and enjoined him to threaten the French Ministers that he (Conway) would represent it to Parliament, if they did not do us justice. The Duke doubted whether, having put the business into a new

train, he could justify concluding it without again consulting the merchants. I persuaded him to despatch a courier to Mr. Conway to say he would conclude, but not to specify in his public letter the error of the merchants, lest the Court of France should get intelligence, and repent of their facility."



The following hitherto unpublished documents relate to the liquidation of the Canada Paper 1765-1766. Here indeed is an early chapter in Canadian history concerning currency and international exchange.

For some time previous the Court of Great Britain through the offices of the Earl of Hertford, then British Ambassador to France, had been negotiating for a settlement of the Canada Bills with the Court of France.

As early as December 9th, 1763, the Earl of Halifax, president of the Board of Trade & Plantations, wrote Governor Murray in Quebec that all Paper Money called Canada Bills in possession of His Majesty's subjects should be accurately ascertained, "in order" continues Halifax, "to enable me to state with Precision, the Sum which is to be demanded of His Most Christian Majesty (of France) according to His Declaration in the late Treaty of Peace concerning the payment of the said Bills."

So Murray was instructed to make a Proclamation requiring every Inhabitant English and French alike, within the Province, to deliver at an appointed time and place a true and exact account of all Canada Bills, Papier Royal, or Lettres de Caisse, which one may have in his or her possession.

All details of each bill would then be recorded, and if certain individuals, because of necessity or otherwise, had been induced to sell at a low price any of their Canada Paper at which they were possessed of at the time of Cession, then a separate account was to be made as to what price these Bills were sold,

from whom and to whom, when and where.

All this information was required from Murray 'with all possible dispatch'. Now that was a tall order for the Governor, and besides that he was faced with the problems of speculation.

Speculation in Canada Paper amongst the traders was high. Governor Murray made efforts to discourage this trading. In a letter of Murray to Halifax dated Quebec, Feb. 14, 1764, he writes:-

"The Definitive Treaty was hardly come to hand, when I received certain Information, that many of the Merchants here were empower'd by their correspondents at home not only to sell in Paper Money but likewise to buy it, provided they could get it at a very considerable Discount. A Gentleman in London wrote to me, that he had desired his Friend here to lay out upward of £15,000 in that way. Hence it was natural for me to think, the people intrusted to my Care must in the end be very great losers by this Traffick, and that it was my indispensable Duty to put a stop to it, as much as in me lay: to this end I published a Declaration dated 27th May ---. I likewise assembled the Canadian Merchants, shewed them the Gentleman's Letter, and represented to them the absurdity of parting with their money for almost nothing, considering the stipulations relative to it in the Treaty, that it was certainly better for them to wait with Patience the Result of these stipulations, than sell it to Merchants, who would not buy it were they not well assured of immense Profit."

The documents which are here produced are principally the correspondence of Henry Seymour Conway\* then one of His Majesty's principal Secre-

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\* See Appendix, page 118.

taries of State, to the Duke of Richmond, then Ambassador Extraordinary in Paris. Here graphically told is the result of their efforts to reach a final settlement of Canada's first exchange problem. There is no record of the following documents in Shortt (Board of Historical Publications, Canadian Archives.)

\* \* \* \* \*

It is interesting to note that David Hume, celebrated 18th century philosopher and historian, had done a considerable amount of important spade-work, as chargé d'affaires on the liquidation of the Canada papers.

Before leaving Paris it was he who was responsible for obtaining a passport for the newly appointed ambassador - the Duke of Richmond.

The settlement of the "Canada Bills" was not included in the Treaty of Paris. There was a vague statement therein to the effect "that the most Christian king would pay the sum due to the new subjects of Great Britain, but that the amount must not be confounded with the money held by French subjects." - These words were most confusing, and seemed to imply that the final solution depended upon an agreement to be entered between the French King and his former subjects in Canada.

There were two kinds of "Canada Bills". The first included Bills of Exchange, the smallest denomination being 50 livres, and the second included paper money which was issued in denomination as low as 20 sous. Each year it was the custom for the merchants and traders to convert these small sums into the larger denominations.

There were three kinds of Bills of Exchange:- Billets d'ordonance, Card-money, and Certificates. During the latter part of French rule in Canada these Bills of Exchange had become greatly over-valued, - partly due to the war, and partly due to the corruption of Bigot and his henchmen. France suspended payment on Bills of Exchange in 1759 when Bigot was arrested and sent to the Bastille.

In 1764 after the Conquest, the French government through three Arrêts dated June 29th, July 2nd, and December 15th respectively, called for registration of all Bills outstanding and set final date for their conversion. - The final price was a considerable reduction of what the Canadians expected, especially the English merchants who had been speculating with this paper money by buying it up from the French inhabitants at a lower rate. A deputation from the Canadian merchants called upon the Earl of Halifax to protest these Arrêts.

It was not until 1765 that things came to a head. Conway who succeeded Halifax as Secretary of State, sent David Hume forceful instructions to negotiate with the French Court. Hume wrote an official memorial on September 25th, 1765. - This is the memorial referred to in the following letters, and it was in no small way due to Richmond's efforts that the final settlement was made April 22nd, 1766, - when Guerchy, the French ambassador to London, signed the formal agreement with Conway. The Canadian merchants expressed their gratitude to Conway in a letter dated April 28th.

General Conway to the  
Duke of Richmond Nov.  
8th, 1765.

St. James's Nov. 8th, 1765.

My Lord,

I am honoured with Your Grace's Letter from Calais, where it is with great Pleasure I learnt your safe Arrival. The Honours you there received from the French Commandant were such as You had reason to expect from your Rank, and from the known Politeness of the French, and Exactness on such Occasions.

Your Grace perfectly understood Mons:<sup>r</sup> de Guerchy\* in his short Conversation with You on the Head of the Canada Bills; the Propositions, he has brought, are such as I have not cared to lay before the Merchants, who, I am positive from their constant Language to me, will by no means consent to them; The inclosed Note to Mons:<sup>r</sup> de Guerchy will explain my Sentiments on that head: I have also taken His Majesty's Pleasure on the Subject, and am by his Commands to desire Your Grace will press with the greatest Earnestness the Compliance of the French Ministry with the reasonable Demands of the Merchants and others His Majesty's Canadian Subjects, who claim his Protection in support of their Rights under the formal Engagement of the late Treaty; and after a Delay which does no ways honour to the Justice of the French Court - How widely do their Propositions differ from the exactements payés, to which They are bound! But I won't trouble Your Grace with a Repetition of Arguments detailed in so many Dispatches, and which Your Grace is thoroughly Master of, nor indeed are they necessary. The Merchants will not accept in the French Funds; They have

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\* See Appendix, page 123.



a Right to refuse it; in reasonable Terms of Payment They have offered, and are willing now to take their Money: His Majesty therefore thinks it his Duty to insist on so reasonable an Accommodation as they offer, when He has by Treaty an indubitable Right to more.

On the head of the Dunkirk We are not nearer an Agreement. Your Grace will see that, by the Terms of my former Note to Mons:<sup>r</sup> de Guerchy, the Day of his Departure, They were to proceed in the Demolition, unless our Engineers agreed in the Necessity of suspending it; They delayed the sending our Engineers on different Pretexes; and in the meantime executed the Work, as You have now seen: however, for what is to come, the Engineers are now there, We must expect their Report, and act upon it; His Majesty having no Desire but That of seeing the Treaty executed according to the true Spirit of it, and of finding the best and shortest Way to do it.

You'll find there has been a *Qui pro quo* on the opening of the Sluices between Desmaretz and Monsieur de Ramsault; which indeed has been chiefly the Fault of the former, in not explaining that the Sluice of Bergues was indeed opened, but Those of Honschotte and the Colme etc., higher up and lying in the Town of Bergues, were kept shut; which bring a great Body of Water into the Canal of Bergues. Monsieur de Guerchy says, he is sure, They must have been opened since the Rains; if so, We shall see their Effect.

It was on this Account too, Desmaretz refused to sign the Procès Verbaux offered him by Mons:<sup>r</sup> de Ramsault; for in the Facts his Account agrees perfectly with theirs; So that there was no Design to chicaner: This I have proved to Mons:<sup>r</sup> de Guerchy.

Mons:<sup>r</sup> de Guerchy, in a Note last Night, says,

he had writ or intimated to his Court, that I should lay his Proposal before the Canada Merchants, I certainly did not say I would; but as he was to write by last Mail, he thought my not saying positively the contrary authorised him to conclude, I should: This Circumstance is trifling; but I mention it, as in Points of Discussion I find every Trifle of this kind becomes Matter of Complaint, at least of Misunderstanding.

This is much more insignificant, as I know positively the Opinion of the Merchants on this head, and so does Mons:<sup>r</sup> de Guerchy, having himself conversed with One of Them on the Subject; the Same who also was at Paris, and I believe knew the Proposition there.

I am with the greatest Truth,

Your Grace's

Most humble and  
Most obedient Servant

H. S. Conway.

P.S.

I have just writ a Note, acquainting M. de Guerchy that there are four French Fishermen brought over here; Who were taken for acting in Contravention to the Treaty, at Newfoundland. It was the Intention of Cap:<sup>t</sup> Hamilton, Who brings them over, to have returned them there, but having never been able, from the Violence of the Winds at West, to make those Islands again, he was forced to sail for England, where he arrived some days ago. The Men are now remitted to M. de Guerchy, for his Disposal.

As he may make mention of this Affair, and possibly as a Subject of Complaint, tho' in no light I see any ground for it, I thought it best to acquaint you with it.

His Grace The Duke of Richmond etc.

Proposition de la Cour de France,  
pour le payement des papiers du  
Canada, appartenans aux Sujets  
Britanniques remise par S.E.M.  
Le Comte de Guerchy le 3<sup>me</sup>  
Nov:<sup>re</sup>, 1765.

(Copie)

Pour prouver le Desir qu'a la Cour de France  
de voir cesser les discussions, qui durent depuis trop  
longtems, au Sujet de la Liquidation des Lettres de  
Change et autres papiers du Canada appartenans aux  
Sujets de Sa Majesté Britannique; Sa Majesté Très  
chretienne propose de convenir du Payement de la  
Somme à laquelle pourront monter les reconnaissances  
resultantes de la Liquidation de la Maniere suivante.

Cette Proposition de la part de la Cour de France,  
a pour fondement la declaration faite par les Negocians  
Anglois dans le dernier mémoire remis par M. Hume,  
par laquelle ils acceptent les reductions de leur Papier  
sur le pié de 50% pour les Lettres de Change et autres  
Papiers qui y sont assimilés, et de 25% pour tous  
autres Effets, le tout conformément aux arrêts du Con-  
seil rendus en France; et que pour assurer la Prop-  
riété Angloise des dits Effets depuis le jour du dernier  
Traité de Paix avec la France, les declarations qui en  
seront faites, seront accompagnées du Serment des  
Porteurs & du Certificat des Sindics des Negocians pour  
prouver qu'ils leur ont toujours appartenus depuis la même  
Epoque. En Consequence Sa Majesté T.C. accordera a  
tous Propriétaires Anglois pour la Representation de leur  
Papier, un nouveau Delai jusqu'au premier Octobre 1766,  
passe le quel Tms, tous ceux des dits Papiers qui n'auront  
pas été déclarés & produits, demeureront prescrits, nuls  
& de nul Effet.

Ces Articles fondamentaux, conformes au dernier  
Mémoire remis par M. Hume, ne paroissant plus souffrir

de Difficulté. La Cour de France propose l'arrangement suivant pour les Termes et la Nature des Payemens.

Il Sera accordé une Indemnité ou Premium de Treize Cent Mille Livres Tournois payables en une année, à compter du Jour de la Signature de la convention, sous la Condition que tous les papiers Anglois liquidés ou non encore liquidés suivront, pour le remboursement, le sort de tous <sup>les</sup> papiers François & entreront en consequence dans la Liquidation de toutes les Dettes de l'Etat; et de plus, que tous les Anglois Propriétaires des dits Papiers renonceront à toute Indemnité particuliere.

L'Interet de la Somme accordée pour l'Indemnité ou Premium sera payée à raison de 4% sans deduction, et commencera à courir du Jour de la Convention.

A Londres le 3<sup>me</sup> Nov:<sup>re</sup>, 1765

Copie.

à Whitehall, ce 6.<sup>me</sup> Nov.<sup>bre</sup>  
1765.

Monsieur,

J'ai bien reflechi sur la Proposition que V: Ex:<sup>ce</sup> m'a fait hier de la part de sa Cour touchant l'Affaire des Billets de Canada. Je sçais que V. Ex:<sup>ce</sup> m'a dit qu'Elle marquerait à sa Cour quels étoient mes Sentimens là'dessus, qui assurément n'étoient nullement favorables à cet Arrangement; mais Je ne sçais pas si Elle a compris \* \* \* \*  
\* \* \* \* \* que Je La priai de vouloir absolument me dispenser de la soumettre de ma part devant ces Messieurs. J'en ai bien parlé avec un Ami qui connoit au fond leurs Affaires, & c'est d'après ses Sentimens, aussi bien que les miens, que J'ai l'honneur de dire a V: Ex:<sup>ce</sup>, pour que de part & d'autre nous nous entendions clairement, que Je trouve cette Proposition en nulle façon convenable aux Idées, ni a l'Attente de ces Negocians, & que Je suis assuré de leur Resolution de ne pas se departir des Propositions envoyées en dernier lieu à Mons. Hume; lesquelles après tant de Delai, & tant de Diminution de ce que les Termes du Traité leur Promettent, me paroissent très raisonnables.

Il ne s'agit d'ailleurs pas d'une Difference considerable pour Votre Cour, quoique très essentielle pour Eux, qui est le Payement en Termes, au lieu des Reconnaissances dans vos Fonds, & d'une petite Difference dans la Somme du Premium, de sorte que Je suis assuré que votre Cour ne fera pas Difficulte d'y acceder, & qu'Elle nelaissera pas subsister cette Dispute à l'Ouverture du Parlement, qui approche, quand Elle pourrait prendre une Tournure plus serieuse que ni Vous ni Moi ne voudrions.



J'ai l'honneur d'etre etc.,

H. S. Conway

S. Ex:<sup>ce</sup> Mo:<sup>r</sup> Le Comte de Guerchy.

M:<sup>r</sup> Sec:<sup>y</sup> Conway to  
Count Guerchy.

Nov. 6, 1765.

(Copy)

General Conway  
Nov. 29, 1765.

Receiv'd 8th Dec.

St. James's, Nov. 29th, 1765

My Lord,

On the 27th I had the honour of Your Grace's of the 22<sup>d</sup> Instant, by Colonel Ligonier, with the two Memorials from the French Ministry, relative to the Affairs of Newfoundland. Tho' I cannot at this time write at large, I do not chuse to omit the Opportunity of acknowledging Your Grace's Diligence, and immediate application to His Majesty's Business, and doing Justice to the Propriety, with which the several Objects of Negotiation between the two Courts were exposed to the French Minister.

In regard to the Detention of the King's Subjects in Convents, upon which head Your Grace desires Instructions, I must confess, that I think Your Grace has taken up the affair in so proper a Manner, that I have only to recommend it to you, to continue the same Stile, and to persist in the Demand of the Release of the misguided children, upon the same Principle You had at first made it. I received Lord George's Letter upon the same Subject, which I did not immediately answer, as I had expected, from what M:<sup>r</sup> Hume had mentioned, that speedy Content would have been given in the first of these Cases, and that They would consider That as a Precedent, and not have denied Justice in a second Instance; Yet I doubt Your Grace will find, that even this Trifle, which not only Justice, but Humanity obliges them to, will not be effected without some Trouble, and repeated Applications.

I am to mention to Your Grace, that it has been thought proper to form a new Cypher, which You will receive by this Opportunity; but which You will please to use sparingly. It may be proper to mention, that the same Messenger carries another of these Cyphers to Lord Rochford; but They have not yet been sent to any other of the King's Ministers in my Department.

I inclose a copy of Count Guerchy's Memorial, and also of a Paper I have received from some of the Canada Merchants; which together will explain to you pretty clearly the State of the French Offers, and our Merchants Expectations.

If the French accept it, it is best to close; or if They will pay the Bills of Exchange so as to make up the Discount of their Funds; and the Ordonnances and Cards, to make up the Discount on them, exclusive of the Bonus, our Merchants will accept of it in that Shape.

The Messenger goes, according to Your Grace's Desire, through Dunkirk.

I am, with great Truth and Respect,

My Lord,

Your Grace's

Most obedient  
humble Servant

H.S. Conway.

P.S.

I have reason to think, that one Nort is at times sent over hither by the French Ministry: He is to be heard of, at Mons:<sup>r</sup> Douet's, Fermier General, Ruede Gaillons. Your Grace will be so

good as to inform Yourself of the Condition of this Man; and to watch, if he should again travel hither; and whether under his own, or a borrowed Name.

His Grace the Duke of Richmond etc.

General Conway to the  
D. of Richmond  
Dec. 26<sup>th</sup>, 1765.

St. James's, December 26, 1765.

My Lord,

I have but a single Moment to write to Your Grace, but could not omit giving you the Satisfaction, you seem to wish, of knowing, the Terms, You are, I hope, by this time agreed on with Mons:<sup>r</sup> de Praslin, are acceptable to the Canada Merchants. They certainly are even beyond their last Demands. I have acquainted some of them since, and am therefore sure, They will be much pleased with their Conclusion; especially the Article of the Interest from January; though you should not obtain the 2,000,000 Premium, instead of 2,500,000.

What the Merchants expect is Such a Fund for Principal and Interest, as shall be subject to no Deduction; and that an Year from this time shall be allowed for bringing in all the Bills, which was the Time formerly askt and allowed. But as That was transacted some Months ago, Monsieur de Guerchy stuck to the Month of October next, in his last Proposition; tho' an Year is now as reasonable as it was then.

In short, by keeping up to the Terms of the Merchants last Proposal, which I have got signed by the Chairman of the Committee, You will be certainly safe: Any Thing beyond will be so much the more acceptable.

As to the Deficiency of the present Canada Funds, That, as Your Grace observes, will be remedied by their being supported by a proper visible Fund, which the French can't deny. If, after that, there is a Deficiency beyond the 20 per Cent, our Merchants must stand by it.

On the whole, Your Grace is fully Master of the Subject. You state it as clearly as possible; and, if You gain the Terms, You mention, I am sure it will give great Satisfaction to our Merchants, and gain You great credit.

As to fixing the precise Sum of the Bills, previously, it is impossible, as the Proposition, for the Year to bring them in, shews: But That need no ways delay the Conclusion.

I shall at present only add one Word on Dunkirk. You will have seen our Engineers' Opinion, and Demand. If the 100 Toises can be got, and in the Place They propose, It is to be desired; If not, and that They will consent to 50 Toises, as a Beginning, as low as can be, It may be accepted, to avoid Delay, and take away, as I am convinced, from Roy's private Opinion, as well as the concurrent Testimony of the Engineers, It will, all Pretence in the French to refuse continuing the Work.

I am with the greatest truth, & regard  
My Lord,

Your Grace's most humble &  
Obedient Servant,

H. S. Conway.

P.S. I enclose the Power I have just received in more form from the Merchants to agree on the Terms as above. Nothing at all new except the distinct description of the Fund & Interest. There is also the other Proposition of Instalments but I imagine that is out of the Question. I wish you'd keep a copy of this Inclosure and send me back the original by the first opportunity.

His Grace the Duke of Richmond.



Copy of a Proposition  
from the Committee of  
Canada Merchants.

19<sup>th</sup> Decem.<sup>r</sup> 1765.

To his Excellency The Right  
Honourable General Conway One  
of His Majesty's Principal  
Secretaries of State etc., etc.

Right Honorable Sir,

under  
Having taken ~ Consideration  
whether or not We could, consistent with  
the Interest of the Holders of Canada Bills,  
and the Power by them in Us invested, ac-  
cept the Payment of their said Property in  
the French Funds, And finding Ourselves  
authorized so to do, We embrace this Op-  
portunity of proving our Readiness to  
facilitate Your Excellency's Endeavors,  
in bringing this weighty Concern to a Speedy  
Conclusion; to which End We do hereby em-  
power Your Excel:<sup>y</sup> to adjust the same on  
the Terms and Conditions following;

The French Court to pay the Proprietors.	{	Fifty per Centum on all Bills of Exchange, and Certificates as specified in our former propositions. Twenty Five per Cent on all Ordonnances, Cartes, & the re- maining Certificates, as per said proposi- tion.
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The above Sums of Fifty & Twenty  
Five per Cent. to be paid in an established,  
secured, transferrable Fund, bearing an  
Interest of Four per Cent. per Annum, with-  
out a Deduction.

The Court of France to pay into the Hands of the Committee the farther Sums of.

One Million Five hundred Thousand Livres Tournois, as a Bonus on the Ordonnances, Cartes & Certificates, paid after the Rate of Twenty five per Cent. and also the further Sums of One Million of Livres as an Indemnification from the Discount which said Fund may sell for under-  
par;

The last Sums to be equally distributed by the Committee to the Proprietors or Holders of all Bills of Exchange, Ordonnances, Cartes & Certificates which may prove their Property British and unliquidated.

To support this Our Demand your Excellency has the following Calculation which recommending to your Protection, We remain respectfully,

London,  
Dec. 19<sup>th</sup>, 1765.

Right Honorable Sir,

Your most obed.<sup>t</sup>  
humble Servants,

The Committee.

Brook Watson - Chairman

The Committee intimated some Time ago to General Conway, that if the Court of France should offer Twenty five per Centum for the Ordonnances, Cartes & part of the Certificates to be paid without Deduction by

Instalments, at the Space of Six, Twelve & Eighteen Months, together with a Bonus of the Sum of Sixty Seven Thousand Pounds Sterling, to be appropriated only towards the Payment of the said Ordonnances, Cartes & Certificates, & that at the Rate of Thirty & three quarters pence Sterling for every French Crown of three Livres.

And also Fifty per Cent for the Bills of Exchange, & such remaining part of the Certificates as are on the same footing to be paid likewise without deduction by Installments as above. The same would be accepted in full of their Demands.

Then the State would stand as under.

Twelve Millions of Ordonnances, Cartes, & Certificates paid as above 25 per Cent is	}	3,000,000
Bonus of £67,000 Sterling at the Exchange of 30 3/4		1,500,000
		<u>4,500,000</u>
Four Millions of Bills of Exchange & Certificates which is the Amount now Estimated, at 50 per Cent. is	}	2,000,000
		<u>6,500,000</u>

The whole than of Our demand is Six Millions and a half of Livres Tournois without Deduction.

But if the Court of France, instead of paying by Installments, as above, should offer to pay in their Funds bearing Four per Cent Interest per Annum, an Addition must be made to the Bonus above required for the Ordonnances, Cartes & Certificates, & also a Sum of Money must be paid to the holders of the Bills of Exchange, & the remainder of the Certificates both

equivalent to the discount at which it may be supposed their Funds will sell at when the Court of France has assigned fixed Reimbursements for the Capital & Interest.

Then the State would stand as under;

12 Millions Ordannance etc. at 25 per cent in their Funds is	}		
Bonus of £ 67,000 Sterling as before		1,500,000	
Discount on the 3 Millions in their Funds, estimated at 20 Per Cent	}		
		<u>600,000</u>	
		2,100,000	
4 Millions of Bills of Exchange etc. at 50 per Cent in their Funds is	}		
			2,000,000
Discount on the 2 Millions as above		<u>400,000</u>	
		<u>2,500,000</u>	<u>5,000,000</u>

The whole then of our demand would be two Millions & a half of Livres, or about £ 104, 116 Sterling in Money, & Five Millions in their Funds as above.

General Conway to the  
Duke of Richmond.  
Dec. 27, 1765.

St. James's, Dec:ber 27<sup>th</sup>,  
1765.

My Lord,

I take the Liberty of troubling Your Grace, at present, in the behalf of an Individual; but the Justice of the Case, & It's being the Cause of an English Merchant, will, I know, insure Your Grace's Attention.

The Case is this; - Louis Larnac, Brother & Partner of a Merchant at Martinique, has been Three Years in England, transacting the Mercantile Affairs of his House, & had gained so good a Credit, that had incurred a Debt of Sixty Thousand Pounds; & being under the Acceptance of Bills, which he could not answer, He left this Country the 14<sup>th</sup> Inst:- It is known that he arrived in France the 17<sup>th</sup>; & thro' the Interest of Monsieur du Bucq, who is near The Duc de Choiseul, he hopes to obtain Lettres de Respit, The Effect of which will be, that his Person & Effects will be out of the Power of his Creditors. It seems these Lettres de Respit are not easy to be obtained, without the Concurrence of the Creditors; but, as this Man's Debts are no way considerable in France, It will be no difficult Matter for him to obtain the consent of his French Creditors; & that consent may be obtained at the Expense of Those who trusted his House in England. I therefore beg Leave to request Your Grace's Attention & Indulgence to Mess:<sup>rs</sup> Thelusson and Necker, who will have the Honour of waiting upon Your Excellency on this Business, and who are Agents for the English Creditors. The great Object of the Application is, that these Letters should not be obtained by Surprise; but that The English

Merchants should have Time & Notice to make their Objections before the Effects of their Debtor are sheltered under the Protection of The Court. As to the Man's Person, I do not perceive any Animosity to him; They do not, I am told, desire to take away his Liberty; and it seems very reasonable, that His Effects should not surreptitiously be exempted from his first Debts.

This Application comes to me from Mess:<sup>rs</sup> Ed: & Rene Payne, considerable Merchants here, & who are Creditors of The Larnacs, to the Amount of £ 15,000.

I am with great Truth & Respect, My  
Lord,  
Your Grace's most Obedient humble  
Servant,

H.S. Conway.

His Grace the Duke of Richmond etc.

P.S. I send herewith, for Your Grace's Information, the particular Words, used in a Paper I have just received from The Canada Merchants, relative to Two Articles of their proposed Agreements; & hope Your Grace will be able to settle the Matter according to those precise Terms, which are such as, I think, The Court of France cannot object to.



The Express Words of a  
Paper given by the Canada  
Merchants to Gen:<sup>l</sup> Conway  
on the 27<sup>th</sup> December, 1765.

The Express Words of a Paper,  
given by the Canada Merchants  
to Gen:<sup>l</sup> Conway on the 27<sup>th</sup> December.

The Court of France to pay the Proprietors  
of all such Bills, etc., as may be tendered before  
the 25th Day of December in the Year of Our Lord 1766.

The above Sums to be paid them in an establish-  
ed, secured, & transferable Fund, bearing an Interest of  
4 per Cent, per Annum, subjected to no Deductions what-  
ever, either on principal, or Interest.

General Conway to the  
Duke of Richmond, Dec.  
31<sup>st</sup>, 1765.

St. James's, 31<sup>st</sup> Dec.,  
1765.

My Lord,

I have Time to do little more than acknowledge the Honour of Your Grace's Letter of the 26<sup>th</sup> by Coates: but not caring to lose any Time in bringing this Tedious Canada Business to a final Settlement, I trouble You with a few Words only, which seem necessary from the Circumstances of Your Dispatch, and which I think cannot fail to have the desired Effect of terminating this Negotiation.

Mons.<sup>r</sup> de Praslin's Offer in general, comes near those of Our Merchants, and with small Variations will be accepted.

1. They think it cannot be refused to prolong the Time for bringing in the Bills from Canada to Dec:<sup>r</sup> 1766, as the Ships do not generally sail from thence till the Month of July; & the Uncertainty of the Seas, and other Delays considered, it seems confining them too much to fix the last Period of the 1<sup>st</sup> of October.

2. The Merchants having always expected and insisted on a Transferable Fund, They conceive it cannot be denied to grant the Fund for all the Bills & Effects now in Europe at some short Period, not later than the 1<sup>st</sup> of March next, when all the Paper now in Europe may be brought in and declared; which is the whole within at most 2 or 3 Millions; It seems not reasonable to stop the funding of the whole for that; it is no ways necessary; and the French will probably chuse, on Account of their own Subjects concerned, to have it sooner established; but for Ours it seems both

just & necessary.

As to the Term of Payment of the Premium; Two Years seems a long one indeed, & not agreeable to the Expectations of our Merchants, or the very Promise in the Proposal made lately by Mons:<sup>r</sup> de Guerchy.

To put this Matter, however, out of Dispute, & to give a facility to the French much beyond M: de Praslin's own Proposition; Our Merchants tell me they are willing even to accept the Premium also in the same Manner, as the rest, viz: the 2,500,000 and to take it in the French Funds; provided those Funds are fix'd as above, & that the same Allowance is made on that Sum as the rest, viz: of 20 per Cent for Indemnity of the Discount on the Sum of 2,500,000, amounting to 500,000; and this Allowance or Indemnity alone to be paid in ready Money; when the Fund is assigned, & the Papers now in Europe brought in.

The rest I must defer to settle at a future Day, when I have had more Time to inform myself of the necessary Steps for the formal Convention etc. I hope, however, Your Grace will now settle finally, & leave Nothing but the necessary formalities to be determined on. The Term for the last Declarations to December 1766, is desireable, but not necessary so as to delay the Conclusion; and the 1<sup>st</sup> of October will be accepted, but even a Month further an agreeable Gain.

I will add only one Word to hope that Your Grace will be able to obtain an immediate Order for prosecuting the Work at Dunkirk by a Demolition at the End of that properly called the Jettées, if not lower among the Ruins, called the Ruins of Chateau Vert; and by an Opening not less than 50 Toises, as mentioned in my last: Even this is by no means sufficient in the Opinion of our Engineers. I must also mention that the Sluice of Bergues has not been opened

as I am informed, more than 12 Times in 36 Tides,  
which shews that even so far the Experiment has not  
been fairly made.

I am with the greatest Truth and Respect

Your Grace's

Most humble &  
Obedient Servant,

H.S. Conway

His Grace the Duke of Richmond

General Conway to The  
Duke of Richmond  
Jan. 24th, 1766.

My Lord,

I am sorry to find by Your Grace's of the 19th Instant, which I have this Day received, that the Affair of the Canada Bills is not yet adjusted.

Inclosed I send, for your Grace's Satisfaction, a Copy of a Project of Convention on that Subject, which has been put into my hands by Count Guerchy, and which is now under the Consideration of the Committee of Merchants. There is one Point, in which it is needless to consult the Merchants; I mean the Period to be established for the Commencement of the Interest, which I think His Majesty will never be advised to permit to be made, posterior to the Period given by the Arrêts to the French Subjects; and it is so just that the Period for ours should be the same as for theirs, that I cannot think the French will make it necessary for His Majesty to insist upon this in a Stile unsuitable to the friendly correspondence, that both Courts profess a Desire of maintaining; tho' I don't think it possible that the King can submit to so extraordinary and so pointed an Injustice offered to his Subjects, as might be almost construed as an Insult, were He disposed to see Things in the least friendly Light.

Your Grace's Remarks are just and unanswerable on this head; and Monsieur de Praslin's Excuse (I can't call it a Reason) of meer Formality little and frivolous; doubly so as being shamefully in the face of their own printed Arrêt, and the Minister's Promise to you. Monsieur de Guerchy has twice told me, he did not think That

could make a Difficulty; and indeed it is quite incomprehensible, unless the French mean to break off the Treaty, now that it hangs on this single Difficulty of their own making so studiously.

Monsieur de Guerchy seems anxious that no opening be left to bring in the Paper that was not at the time of the Peace the Property of His Majesty's Subjects; and I am no less desirous of preventing that than he can be; First, because it is not for the Interest of Those of His Majesty's Subjects, whose Security was the Object of the Treaty; for it is plain that the greater the Number of Claimants there are, the smaller Proportion of the Bonus must fall to each Individual, and consequently it is not for the Interest of the fair Claimant to increase the Number of Claimants. This is a Reason, that the French Ministry Themselves will allow, may have Weight with me, and make me coincide with their Ambassador in all reasonable Measures to preclude the French Subjects or Purchasers of the Property from the Benefit of our Treaty. And there is another Motive, which does actuate me, tho' a French Minister may not so easily suppose it; that is, that I don't think it would be just to admit any but our own People, and of Them Those only who claim fairly Part of that Debt, which it was found necessary to engage the French by Treaty to pay. But, at the same time that from a sense of Justice, and from the consideration of the Interest of the fair Claimant, I am willing and desirous to join in every feasible Method of precluding others, I can never agree to clog and embarrass the proper Proofs with such Conditions as are impracticable to the honest fair Claimant, which just as it is now drawn, I think would be the Case: On the Principles, however, on which We mutually act, I hope to be able soon to settle these matters of little more than Formality with Monsieur de Guerchy; as I shall readily agree to the strongest Terms of an Oath, that can be



framed, to preclude a Possibility of Fraud or Collusion in the Acquisition of the Paper.

I laid before His Majesty Your Grace's Request of being permitted to return home for a Time. I have before written to Your Grace on this Subject; but spoke to His Majesty again today; He wishes extremely to see Your Grace in England, but has Doubts as to the Time; till some Matters of Consequence are farther cleared up.

I don't enter into the Subject of Dunkirk now. I expect to hear His Most Christian Majesty's and Monsieur de Choiseul's Decision, but must think his new Claim of Right the most ridiculous and absurd I ever heard.

I am, with the greatest Truth and Respect,

My Lord,

Your Grace's

Most obedient  
Humble Servant,

H.S. Conway

His Grace the Duke of Richmond etc.

Count Guerchy's Projet  
de Convention pour liquider  
le Papier du Canada.

Projet de Convention pour liquider le papier du Canada appartenant aux Sujets de la Grande Bretagne, entre son Exc.<sup>e</sup> Mons. le Comte de Guerchy Ambassadeur de Sa Majesté tres Chretienne, et revêtu de pleins pouvoirs à cet effet; et Son Exce. Mons. le Lieut. General Conway Secretaire d'Etat revêtu de pleins pouvoirs de sa Majesté Britannique, et autorisé par le Comité des Marchands du Canada.

Pour terminer les Dissentions qui durent depuis trop longtems au Sujet de la liquidation de ce papier appartenant aux Sujets de la Grande Bretagne, il a été convenu des Articles suivans qui sont la Substance du Mémoire remis par Mons. Hume à la Cour de France.

Art.<sup>e</sup> 1.

Son Excellence M. le Gen:<sup>l</sup> Conway revêtu de pleins pouvoirs de Sa Majesté Britannique et fondé de Procuration du Comité de Propriétaires & Porteurs Anglois de ce Papier, dont il se fait fort, accepte pour eux et en leurs noms la reduction du dit papier qui leur apartient sur le pied de 50 p. c. pour les Lettres de Change & Papiers qui y sont assimilés, et de 25 p.c. pour les Cartes, Ordonnances et autres Effets, payables en reconnaissances ou Contrats de Rente a quatre et demy pour Cent, conformément aux Arrêts du Conseil rendus en France les 29 Juin, 2 Juillet, et 15 Dec:<sup>bre</sup>, 1764, 29 & 31 Dec:<sup>bre</sup> 1765; lequel interet commencera à courir de la date de la presente Convention.

2.<sup>e</sup> Art.<sup>e</sup>

Pour constater la propriété Angloise de ce papier a l'époque de la Signature du dernier Traité de

Paix avec la France, tout propriétaire ou porteur sera tenu d'en faire une déclaration sous Serment dans les formes & termes qui seront ci-après prèscrits, dans un Nouveau délai que Sa Majesté très Chretienne leur accorde jusqu'au 1. Oct:bre 1766: Epoque fixé par le Mémoire que M. Hume à remis à la Cour de France. Après l'expiration duquel, ceux des dits papiers qui n'auront pas été déclarés & produits, demeureront prèscrits, nuls et de nul effet.

### 3. <sup>e</sup> Art:<sup>e</sup>

Ces Déclarations de la part des propriétaires et porteurs de ce papier, se feront sous Serment qui sera prête par devant le Lord Maire de la Ville de Londres ou tel autre Magistrat en personne qu'on nommera à cet effet dans un lieu & à des tems qui seront indiqués, et en présence d'un Commissaire préposé par la Cour de France et d'un Deputé du Comité Marchand du Canada; auxquels Commissaire et Deputé il sera loisible de faire par l'entremise du Magistrat qui administrera le Serment, à celui qui viendra le prêter, telles Questions qu'ils jugeront necessaires relativement à cet Objet.

### 4. <sup>e</sup> Art:<sup>e</sup>

Le Propriétaire de ces Effets qui les avait en sa possession avant la Signature du dernier Traité de paix, affirmera sous serment qu'il est sujet de la Grande Bretagne, et qu'il avait acquis et possedait Ce Papier à cette époque. A l'égard de ceux qui les auront reçus, soit en payment, soit en depôt, ou qui les auront acquis depuis, et qui ne pourront affirmer en leur propre Nom qu'ils tiennent ce Papier des Canadiens et Sujets de la Grande Bretagne qui en étoient propriétaires à

l'époque ci-dessous, ils seront obligés de produire les propriétaires ou porteurs primitifs en état de prêter le Serment requis ci-dessous.

#### 5.<sup>e</sup> Art.<sup>e</sup>

Tout Porteur ou Propriétaire de ce Papier qui voudra être admis à faire sa Declaration, sera tenu de remettre d'avance entre les mains du Comité Anglois deux Copies de l'Etat de leurs prétentions, l'une à l'usage du Comité, l'autre pour le Commissaire François; dans lequel état seront spécifié le montant des différentes espèces de Papier dont il se propose d'affirmer la propriété, comme Lettres de Change, Cartes, Ordonnances, etc., et ceux des dits porteurs ou propriétaires, qui seront dans le cas de produire un propriétaire primitif, en feront mention dans leur état, avec son Nom, Surnom, qualité ou profession, et demeure, afin qu'on puisse leur assigner à mesure un jour fixe pour recevoir leur Serment.

#### 6.<sup>e</sup> Art.<sup>e</sup>

Après le Serment prêté, il en sera délivré à chaque propriétaire un Certificat en forme par le Magistrat qui l'aura reçu; lequel certificat sera visé et signé par le Commissaire François, et par le Député Anglois, et contiendra un état de chaque espèce de Papier dont il aura affirmé la propriété afin que muni de ce Certificat, il aille présenter ses effets au Bureau de la Commission à Paris, pour y être examinés, visés & convertis en reconnaissance au Contrats de vente suivant la réduction fixée et convenue.

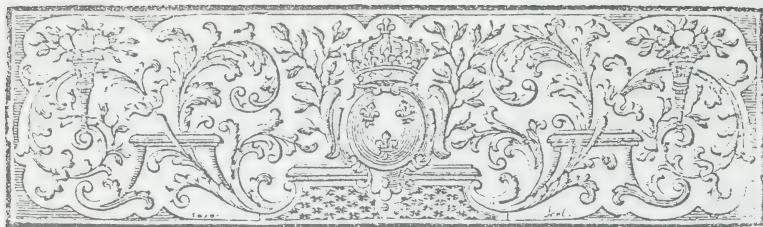
#### 7.<sup>e</sup> Art.<sup>e</sup>

En faveur de l'arrangement ci-dessus, la

Cour de France accorde aux propriétaires Anglois de ce Papier une indemnité ou Prémium de trois Millions Tournois payables de la maniere suivante, Savoir; la Somme de cinq Cens Mille Livres qui sera compté à Paris sur l'Ordre et le reçu de son Ex:<sup>ce</sup> M. le Gen:<sup>l</sup> Conway, dans le Courant du mois d'Avril prochain; et les deux Millions Cinq Cens mille Livres en Contrats de Vente de même nature pour l'Interet & le remboursement, que ceux qu'on delivrera pour le produit des 50 & 25 p.C. de Capitaux de Lettres de Change, Cartes, Ordonnances, etc., sans la Condition expresse que tous les Papiers du Canada de propriété Angloise liquidés ou a liquider, suivront pour le remboursement le sort des papiers François, et entreront en Conséquence dans la liquidation des dettes de l'Etat; et de plus que tous les Anglois propriétaires du dit Papier renonceront a toute Indemnité particuliere pour quelque Cause et prétexte que le puisse etre. \*

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\* See opposite page for final outcome of settlement in the Arrest du Conseil d'Etat du Roi.



# A R R E S T

## D U C O N S E I L D' É T A T

## D U R O I,

*Qui ordonne que les Propriétaires anglois de Papiers du Canada, seront admis à la liquidation ordonnée par les arrêts du Conseil des 15 décembre, 29 juin & 2 juillet 1764, & qui en règle les formalités.*

Du 9 Mai 1766.

*Extrait des Registres du Conseil d'État.*

**L**E ROI s'étant fait représenter la Convention signée à Londres le 29 mars dernier, entre Sa Majesté & le Roi de la Grande-Bretagne, au sujet des Papiers de Canada, de propriété angloise; Et Sa Majesté voulant autoriser les sieurs ses Commissaires, députés pour la liquidation desdits papiers, à faire toutes les opérations relatives à l'exécution de ladite Convention. Oûi le rapport; **LE ROI ÉTANT EN SON CONSEIL**, a ordonné & ordonne que tous les Billets de monnoie, Lettres de change & titres de créance du Canada, pour lesquels les Porteurs justifieront avoir rempli les formalités



## CHAPTER III

### POLITICS

In the following year the Duke of Richmond became secretary of State in the Rockingham administration.

From these same "Memoirs of the Reign of King George the Third" by Horace Walpole we note the following:

"In the room of the Duke of Grafton I (Walpole) resolved to try to make the Duke of Richmond Secretary of State. Not that I could flatter myself with the duration of the system; but as I knew the Duke had better talents than most of the Ministers, and would be more moderate, I thought he would be likely to bring them to such a temper as might prevent their dissolution then, and would be of use to them if they remained in power. My friendship for him made me desirous, too, to obtain that rank for him, that, although he might enjoy it but a very short time, he might have pretensions to the same place, if ever they recovered their situation. He was apt to be indolent if not employed: the Secretary's Seals might inspire him with more taste for business. I first mentioned the thought to himself, and found him pleased with it; and then engaged him to ask Mr. Conway's interest, with whom I myself made it a point. Conway liked the motion, but said he was so nearly<sup>(1)</sup> connected with the Duke of Richmond, that he did not care to ask it; always preferring his own character to the service of his friends. I acted, however, so warmly in it, and Lord Rockingham took it up with so much kindness to

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(1) The Duke of Richmond had married Lady Mary Bruce, daughter by her first husband of Lady Ailesbury, Conway's wife.

the Duke, that we surmounted Conway's delicacy, and the Cabinet Council proposed it to the King. His Majesty, who had never forgiven the Duke of Richmond, objected strongly to that choice; said the Duke was too young (though as old as Grafton), and desired it might be first tried if Lord Hardwicke would not accept the Seals. Lord Hardwicke, a bookish man, conversant only with persons, ignorant of the world, and void of all breeding, was as poor a choice as could have been made; and being sensible himself that he was so, declined the offer; yet to avoid taking Richmond, and to keep within the circle of Lord Rockingham's friends, his Majesty next proposed to make the Attorney-General, Yorke, Secretary of State. If the elder brother was ill-qualified for that office, the younger was still more so, being ignorant of languages and of Europe, and read in nothing but the learning of his profession. Lord Rockingham, as civil as the King, yielded to make this trial too; but at the same time told the King that he and his friends, finding the precariousness of their situation, wished to resign their employments. The King begged they would not, said he should be greatly distressed, and had nobody to replace them. Yorke declining the Seals, they were at last bestowed on the Duke of Richmond, who in answer to the notification he received from Lord Rockingham, marked his being sensible how little he had been his Majesty's choice. He entered, however, on his office with all the ardour and industry that I had expected, and had every qualification to make him shine in it. He had such unblemished integrity, and so high a sense of his duty and honour, that in the preceding winter Lord Powis having been exposed in the House of Lords for sordid meanness and injustice to Lady Mary Herbert, the sister of the last Marquis, from whose bounty Lord Powis had received his estate, and yet withheld from her a scanty annuity, the Duke of Richmond consulted the Chancellor to know if there was no prece-



Engraved by W.T.Mote.

CHARLES WENTWORTH, MARQUIS OF ROCKINGHAM.

OB. 1782.

FROM THE ORIGINAL OF SIR JOSHUA REYNOLDS, IN THE COLLECTION OF

THE RIGHT HON<sup>BLE</sup> THE EARL OF FITZWILLIAM



dent of expelling a Peer, so little was his Grace possessed by what is called *l'esprit de corps*."

Concerning the Duke of Richmond's appointment as Secretary of State, we have from the "*Memoirs of the Marquis of Rockingham and His Contemporaries*", edited in two vols. by George Thomas, Earl of Albermarle, London 1862, the following facts:

George the Third, to borrow the expressive phrase of Lord Hardwicke, "did not taste the successor to the vacant seals". Among other reasons for the Royal disrelish of the appointment, Walpole assigns the following:

"Early in this reign, Lord Fitzmaurice, afterwards Earl of Shelburne, being at the time in high favour with Lord Bute, was made Equerry to the King, over the head of his superior officer, Lord George Lennox. The Duke of Richmond, irritated by this slight to his relative, carried a memorial to his Majesty, and commented upon the appointment in a manner that was neither 'forgiven nor forgotten', by a Prince equally remarkable for his keen resentments and his retentive memory. The following pages will indeed afford more than one proof that the King for several years to come continued to regard the Duke of Richmond with no favourable eye."

Again in these "*Memoirs of the Reign of King George the Third*" there is this information about the Duke.

"The Duke of Richmond, (1) haughty and young, was offended that his cousin, Colonel Keppel, (2) was

(1) Charles Lennox, third Duke of Richmond.

(2) William Keppel, third son of William Anne, second Earl of Albermarle, by Lady Anne Lennox, daughter of the first Duke of Richmond. He commanded a regiment at the conquest of the Havannah, and died a General officer, unmarried, in 1786. - E.

removed from Gentleman of the Horse, which the king destined for one of his own servants, The Duke asked an audience; but began it with objecting to the distinction paid to Sir Henry Erskine.<sup>(1)</sup> This so much disgusted, that the King would not hear the Duke on the subject of Keppel. On cooler thoughts, Lord Bute was sent to the Duke, to offer him to be of the King's Bedchamber. He accepted it, on condition that Keppel should remain Gentleman of the Horse, which was likewise granted. But this pacification lasted few days. Lord Fitzmaurice, a favourite of Lord Bute, was made Equerry to the King; though inferior in military rank to Lord George Lenox<sup>(2)</sup> and Charles Fitzroy, brothers of the Dukes of Richmond and Grafton. The latter had been of the Bedchamber to the King, when Prince, but had quitted it, from dislike of Court attendance, and disgusted with the haughty stateliness affected by Lord Bute. Richmond and Grafton were much of an age; each regarded himself as Prince of the Blood; and emulation soon created a sort of rivalry between them. The Duke of Richmond's figure was noble, and his countenance singularly handsome.

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(1) There is a slight inaccuracy in this statement. The Duke's resentment was not so generous. The object of his interview with the King was to promote his own interest, not that of Colonel Keppel. - See the Duke of Richmond's letter of 21st June, 1783, in the Appendix to Dodington's Diary. - E.

(2) Lord George Lenox was only brother of Charles third Duke of Richmond. He had behaved with distinguished gallantry in the German wars. The late Duke of Richmond, who was Governor General of Canada in 1818-19, was his son. - E.



The Duke of Grafton was low, but manly, and with much grace in his address. The passions of both were strong, but of the first, ardent; of the latter, slow and inflexible. His temper was not happy; but the Duke of Richmond's, which was thought worse, because more impetuous, was pliant, and uncommonly easy and accommodating in his family and society. Both were thought avaricious; but the latter very unjustly, generally approaching nearer to the opposite extreme of profusion. His parts, too, were quicker and more subtle than Grafton's and more capable of application, though his elocution was much inferior. The Duke of Grafton had a grace and dignity in his utterance that commanded attention, and dazzled in lieu of matter; and his temper being shy and reserved, he was supposed to be endued with more steadiness than his subsequent conduct displayed. Neither of them wanted obstinacy; but their obstinacy not flowing from system, it was in both a torrent more impetuous in its course than in its duration.

"The Duke of Grafton made a decent representation to the King, on the wrong done to his brother, and demanded rank for him. The other Duke carried a violent memorial, and commented on it in a manner, which some years afterwards he found had never been forgotten or forgiven. The next day he resigned the Bed-chamber, but not his regiment. In a few days he repented his step, and went to Lord Bute to explain away his resignation, which, he said, might not be known. Lord Bute replied, all the world knew it. The Duke, thinking this coldness proceeded from a suspicion that he was influenced by Fox, (1) his brother-

(1) Henry Fox had married Lady Caroline Lenox, eldest daughter of Charles, late Duke of Richmond, without the consent of her father and mother, who were some years unreconciled to her.

in-law, disclaimed all connexion with him, and said, he had never approved his sister's marriage. Lord Bute, who even then probably had views of Fox's support, as a counterbalance to Pitt, replied, that Mr. Fox's alliance could be a disgrace to no man; as he must always be of great use and weight in this country. Yet the Duke's youth and frankness made him avow what he had said to Fox himself, in the presence of Lord Albermarle, who, though not much older, had far more worldly cunning, and no doubt reported the conversation to his master, the Duke of Cumberland; for Richmond and Albermarle, though first cousins, were no friends; and the latter possessed all the arts of a Court. The Duke, rebuffed by the Favourite, next consulted the Duke of Cumberland, who told him prudently, that he was sorry the Duke of Richmond, at twenty-three, had quarrelled with the King, at twenty-two; and advised him to retire into the country, which he did. The effects of these squabbles will appear hereafter, which made it proper to state them here."

\* \* \* \* \*

Walpole mentions that the Duke, in answer to the notification he received from Lord Rockingham, on the subject of his appointment, marked his being sensible how little he had been his Majesty's choice. The letter alluded to is as follows:

"Goodwood, Monday Evening,  
19th May, 1766.

"The King's thinking of appointing me his Secretary of State for the Southern Department, must ever fill my mind with the highest sense of duty and gratitude. At the same time I feel it is an honour I had no right to expect, from any use I can possibly be of, and must proceed from the partiality with which your Lordship

and General Conway have represented me to his Majesty. This is even more pleasing to me, than to have been thought equal to so great an undertaking; for the esteem of my friends far outweighs my vanity.

But, however unable I fear I am to fill so important a post in the manner I could wish, I think it my duty to the King to undertake it, since his Majesty has been pleased to name me; and the entire confidence I repose in your Lordship and the rest of his Majesty's servants, ensures me that, though my part may fail in the execution, I can never be embarked in any measures but such as are directly tending to His Majesty's honour and the good of the public. If perseverance in these can make my services acceptable to the King, I shall esteem myself happy.

As to opposition, I foresee a great deal of very troublesome work, but am no way dismayed at it, for I have no doubt but that good measures, supported by honest men and protected by his Majesty will ever meet with the approbation of the nation in general. The discontents of interested and disappointed men need only be despised to be ineffectual.

Lord Dartmouth's being either Secretary of State for the Plantations, or First Lord of Trade with fuller powers, is, I imagine, very proper, having often heard that the American affairs load the Southern Department with so much business as to make it almost impossible to go through with it. For my part, I shall be happy to leave that branch in so much abler hands."

A few days after the Duke of Richmond was appointed Secretary of State, Lord Rockingham received the following characteristic letter, from the captious and grumbling Chancellor. (Northington). The

first paragraph appears to refer to the Bill for Quebec, which Northington made the pretext for overthrowing his colleagues.

The Earl of Northington to the Marquis of Rockingham

"Grange, May 22, 1766

"My Lord:

"Your messenger came here last night as I was going to bed, (so) that I could not return him with this and the copy of the Bill till this morning. I have perused the Bill, according to your Lordship's desire, and my thoughts of it are, that should it pass into a law, it would be the most oppressive to the subject that ever was enacted; and that it erects into an Inquisition every inferior magistrate: and, in a summary way, vests the supreme power of tormenting in the Court of King's Bench. These are my private thoughts, perhaps shallow ones, for I own I cannot fathom the depth of modern politics.

"I am glad to find your Lordship hath supplied the vacant Seals,\* as the state it was in was not creditable to Government and the like satisfaction I receive in the accession of Lord North"-----"My Lord, Your Lordship's most obedient

"And most humble servant

"8 o'clock a.m."

"Northington".

\* \* \* \* \*

\* i.e. The appointment of the Duke of Richmond to Secretary of State.

During this time the Duke of Richmond played an important role in the early development of Canada, as the Richmond documents in my possession attest.

Richmond, Guy Carleton (2nd Governor General of Canada), and Francis Maseres,\* his Attorney General, had all a great deal in common, aside from their Whig allegiance. They were all part of the advanced liberalism of their day, and their actions reflected their policies. Carleton, as has already been stated, was at one time Richmond's military tutor, so it was only natural that Richmond favoured him for the second Governor of the new colony. It is interesting to note in this connection that Guy Carleton was recommended to the post of military tutor by General James Wolfe, which Wolfe himself had been asked to fill. (1)

"Charles Lennox, second Duke of Richmond (This is an error, he was the third Duke of Richmond), succeeded to his title at the early age of sixteen, and soon afterwards entered the army. He was present at the battle of Minden, and his gallantry on that occasion attracted the special notice of the Commander-in-Chief. On the formation of the Rockingham Ministry, the Duke was appointed to the Court of Versailles, and performed the duties of his embassy with great ability. He was ever a devoted adherent of Lord Rockingham, under whose second Administration, in 1782, he held the office of Master-General of Ordnance.

On the death of that Minister, in the summer of the same

(1) Page 8 "James Wolfe" by Professor Waugh. "Wolfe recommended him (Carlton) strongly for a position which he (Wolfe) had been asked to fill, that of military tutor to the young Duke of Richmond, who was to get a company in Wolfe's own regiment --- 1753. Wolfe wrote his mother 'the Duke wants some skilful man to travel with him through the Low Countries and into Lorraine. I have proposed my friend Carleton'." p.3.

\* See Appendix, page 125.

year, the Whigs consulted who was to be the future head of the party. The Duke of Richmond claimed the post, but the Cavendishes and the other great families objected to his Grace, on account of his being so deeply pledged to Universal Suffrage and Annual Parliaments. He was highly offended at this, more especially as the Duke of Portland was proposed by the majority of the Whig party. Charles Fox, his nephew, tried to pacify the Duke of Richmond by saying that, perhaps, he himself, as leader of the House of Commons, might have as good pretensions as his Grace, but that he thought it right to waive those pretensions, as he too, although to a much less degree, was pledged to Parliamentary Reform. Moreover, as the Cavendishes and their friends were not disposed to support even the moderate views which he entertained on that subject, it was clear that neither the Duke of Richmond nor himself could succeed to Lord Rockingham's place, without risking a fatal breach in the party. In consequence of this declaration, the Duke, on the formation of the Coalition, broke off from his former friends, and joined a combination still more heterogeneous in its elements than that which he quitted." (The authority for this statement is the Right Hon. Sir Robert Adair, G.C.B., to whom it was made by his uncle, Lord Keppel.)

The Duke of Richmond was remarkable for the beauty of his person and the grace and courtesy of his manners. In every relation of private life his character was unexceptionable. He was a zealous friend, an affectionate brother, an attached relative. As a public man, he was very ambitious and somewhat violent and impracticable. As an orator, he was rather effective than agreeable. His speeches abounded in information; his language was characterized by boldness and warmth of expression, and he excelled in reply. On the other hand, his memory often failed him; he made frequent pauses, and his delivery was



unnecessarily slow. Yet with all these defects, he was, perhaps, the most formidable antagonist that the greatest orator of that day had ever encountered.

When the Indemnity (Bill) of 1766 was brought up to the House of Peers, Pitt, who had just been created Earl of Chatham, and appointed first minister of the Crown, wound up a fierce diatribe against the House of Peers, by declaring that he would set his face against the proudest connexion in the country. The Duke of Richmond took this up, and said, "he hoped the nobility would not be brow-beaten by so insolent a minister". Lord Chatham is said to have been "stunned by this rough attack", and it was observed that from that day, during the whole remainder of his Administration, he appeared no more in the House of Lords.

In the "Memoirs of the Reign of King George the Third", Horace Walpole continues thus:

"The next day the Bill of Indemnity, which had passed the Commons, was read in the House of Lords. The Duke of Richmond called on the Chancellor and President to explain their doctrine of necessity justifying a dispensing power . . . . . Lord Chatham said, that when the people should condemn him, he should tremble; but would set his face against the proudest connection in this country. The Duke of Richmond took this up with great heat and severity, and said, he hoped the nobility would not be brow-beaten by an insolent Minister. The House calling him to order, he said with great quickness, he was sensible truth was not to be spoken at all times, and in all places. Lord Chatham challenged the Duke to give an instance in which he had treated any man with insolence; if the instance was not produced, the charge of insolence would lie on his Grace. The Duke said, he could not

name the instance without betraying private conversation; and he congratulated Lord Chatham on his new connection, the Duke looking, as he spoke, at Lord Bute.

. . . . .  
Notwithstanding his success, Lord Chatham was stunned by so rough an attack from the Duke of Richmond, a young man not be intimidated by supercilious nods, or humbled by invective, which his Grace had shown himself more prone to give than receive. The silence of the place, and the decency of debate there, were not suited to that inflammatory eloquence by which Lord Chatham had been accustomed to raise huzzas from a more numerous auditory. Argument, at least decorum, would be expected, not philippics. Whether these reflections contributed or not to augment the distaste which the ill-success of his foreign, and the errors he had committed in domestic politics, had impressed on his mind, certain it is that the Duke of Richmond had the honour of having the world believe that by one blow he had revenged himself and his party, and driven his proud enemy from the public stage; for from that day Lord Chatham, during the whole remainder of his Administration, appeared no more in the House of Lords, really becoming that invisible and inaccessible divinity which Burke has described, and in three months as inactive a divinity as the gods of Epicurus." (1)

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(1) If this supposition be true, it is an extraordinary coincidence that the Duke of Richmond should, eleven years later, have made the speech which unquestionably hastened Lord Chatham's death. - E.

In 1778 Richmond by a motion in the House of Lords entreated the King to withdraw his forces on sea and land from the 13 rebellious American Colonies. He adjured His Majesty to make peace with them while it was still possible and on such terms as might assure their goodwill. It is interesting to recall that his words so disturbed Lord Chatham, who at the time was violently opposed to an appeasement, that he started what turned out to be his last speech. The Duke replied to him, expressing great respect for Chatham's talents and character.

"The name of Chatham will ever be dear to Englishmen" he said, "but while I grant this, I am convinced that the name of Chatham is not able to perform impossibilities." At these words Chatham stood up to reply - then immediately fell and was removed unconscious from the House. He died shortly afterwards.

Although Richmond was democratic in his policies - he himself was extremely aristocratic in his personal contacts - indeed often overbearingly so. On one occasion his snobbery met its match. In a debate in the House he had, dangerously for himself as it turned out, the bad taste to sneer at the humble beginnings of the lately appointed Chancellor Lord Thurlow.

Thurlow, fixing on the Duke a look of the most lofty contempt, retaliated in the following cutting and crushing words:-

"I am amazed at the attack the noble Duke has made on me. Yes, my Lords" - raising his voice to its loudest tones - "I am amazed at his Grace's speech. The noble Duke cannot look before him, behind him, or on either side of him, without seeing some noble Peer

who owes his seat in this House to successful exertions in the profession to which I belong. Does he not feel that it is as honourable to owe it to these as to being the accident of an accident? To all these noble Lords the language of the noble Duke is as applicable and as insulting as it is to myself, but I do not fear to meet it single and alone. No one venerates the Peerage more than I do, but, my Lords, I must say the Peerage solicited me, not I the Peerage. Nay more, I can say, and will say, that - as a Peer of Parliament, - as Speaker of this right honourable House, - as Keeper of the Great Seal, - as Guardian of His Majesty's conscience, - as Lord High Chancellor of England, - nay, even in that character alone in which the noble Duke would think it an affront to be considered, as a man, - I am at this moment as respectable, - I beg leave to add, I am at this moment as much respected, - as the proudest Peer I now look down upon! \*

Perhaps this "accident of accident" - his bar sinister - might have been a strong contributing reason for Richmond's occasional outbreaks of snobbery. This is indeed paradoxical to his frequently expressed democratic leanings.

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\* The Great Governing Families of England, by John Langton Sanford and Meredith Townsend in two Volumes. London 1865.

From a book called The Peerage of England by Arthur Collins, London, 1779, the Who's Who of that time, there is the following description of the Duke of Richmond:

"His Grace having likewise an elegant taste for the polite arts, ordered, in March 1758, a room to be opened at his house at Whitehall, containing a large collection of original plaster-casts, from the best antique busts and statues of Rome and Florence, to which any painter, sculptor, carver, or other artist, and youths above twelve years of age, to whom the study of those gesses (arts) may be useful, are allowed access without any expense: and for the encouragement of genius, he moreover bestows annually, two medals on those who make the two best models. His Grace is also one of the Vice-presidents of the Society for encouraging arts, manufactures and commerce, and of the Lying-in-hospital for married and unmarried women, in Duke Street near Grosvenor-Square, London."

\* \* \* \* \*

# OBSERVATIONS

ON

THE DUKE OF RICHMOND'S

*Extensive Plans of Fortification,*

AND THE NEW WORKS HE HAS BEEN CARRYING  
ON SINCE THESE WERE SET ASIDE BY THE  
HOUSE OF COMMONS IN 1786.

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BY THE AUTHOR OF THE SHORT ESSAY.

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L O N D O N :

PRINTED FOR G. G. AND J. ROBINSON,  
PATERNOSTER-ROW.

1794.



On May 23, 1766, the Duke of Richmond was appointed one of the Secretaries of State in the first Rockingham Ministry, in place of the Duke of Grafton. Richmond was at that time a recognized member of the Rockingham connection, but the Ministry was tottering when he joined it and on August 2nd following the Duke resigned with Lord Rickingham to make way for the first Pitt's second Ministry.

When the second Rockingham Ministry was formed in March 1782, the Duke was appointed Master-General of the Ordinance, with a seat in the Cabinet.

Some of his measures came under severe criticism as the following extract from a pamphlet written by James Glenie \* - will attest:

"What shifts are not men driven to, when they become advocates for an indefensible cause! Facts, however, ought never to be lost sight of; for some time or other they will always recur. The truth is this, that it has ever been the invariable practice in Canada and Nova Scotia to include the expence of fortifications and other military works in the extraordinaries of the army. The three great branches of public expenditure are the navy, the army, and the ordnance: and it is somewhat surprising that any member of the House of Commons should have been so little acquainted with one of the principal articles that form the extraordinary expence of the second of these, as to suppose it defrayed by the third. To prevent the possibility of charging me with misrepresentation, I have quoted this gentleman's own words, as

\*Observations on the Duke of Richmond's Extensive Plans of Fortification etc. by the Author of the Short Essay London 1794.

they are published in the Parliamentary Debates. It is certainly fair then to ask him the following question. If the necessity of erecting new works along the western frontier of Nova Scotia against any attempts that might be made by the United States, really occasioned the prodigious difference between the ordnance estimates of 1783 and 1763, what is become of the money demanded and voted for that purpose, since no such works have ever been erected? The estimate of 1783 had no such erections in contemplation. Was not the expence of Fort Howe at the mouth of the river St. John, of the works at Halifax, of those at Quebec, and all the other posts both in Lower and Upper Canada, included in the extraordinaries of the army, instead of being defrayed by the ordnance board? No part even of the money voted some years ago for ordnance-storehouses in New Brunswick, which borders on the States, has as yet been expended, at least on any such buildings in that province. And the absurdity of erecting them at Fredericton is too palpable to admit of one moment's consideration, which I shall take another opportunity of demonstrating. This board has neither been at any expence on account of the posts at Presque Isle and the grand falls on the river St. John, that Brigadier General Carleton, with the approbation of his brother Lord Dorchester, lately established, (which are generally supposed to be within the line of the United States as fixed by the treaty of Paris, and I am convinced will really be found to be so), nor of the barracks erected at Fredericton in 1792 \*. In short, the ordnance has not paid for the erection of any public work whatever on the western frontier of British America. "

\*This however seems directly contrary to the seventh regulation in his Majesty's Instructions, dated the 7th September, 1791, and signed "Henry Dundas," addressed to the Master General and Board of Ordnance, the Paymaster of guards and garrisons, and to all Governors, Lieutenant Governors, &c. The expence of erecting them was defrayed by orders or warrants from Brigadier General Carleton on Mr. John Robinson, acting Deputy Paymaster for the province. This mode of expenditure seems also inconsistent with the 5th regulation in these Instructions, which directs Governors, &c. "to draw such bills as may be necessary for defraying the expence of such services in their own names on the Commissioners of the Treasury, and on no other person or board whatsoever." And, as the plea of sudden and unforeseen emergency cannot possibly be made use of for their erection, I am rather inclined to think that several other regulations in these Instructions have, with regard to them, been either ignorantly or contumaciously violated abroad, and supinely overlooked at home. But whether this idea be well founded or not, I am clearly of opinion that the money expended on them might as well have been thrown into the river St. John, for reasons which I will take another opportunity of assigning at full length. Whoever compares these particulars with those for which Colonel Fraser was so rigorously prosecuted will be filled with astonishment! and it would perhaps give pleasure to the public to see the House of Commons frequently extend its attention to such expenditures abroad as well as at home.

## CHAPTER IV

### THE JOURNAL OF 1766

In the Memoirs of the Marquis of Rockingham and his Contemporaries, edited in two volumes by George Thomas, Earl of Albermarle, London 1862, there is mention of a Journal kept by the 3rd Duke of Richmond in which there are some references relating to Canada.

There was a tradition that this Journal had been lost, but the author was fortunate finally to discover it in the possession of the West Sussex County Archives.

Acknowledgment is hereby gratefully given by him to the present Duke of Richmond, and to the West Sussex County Council for permission to include in this chapter, some of the material from the Journal relating to the conception of the Quebec Act. - A page from this Journal is here reproduced.

June 1766.

"Towards the end of this month of June," says Lord Hardwicke's 'Memoriall', "a matter came before us which was of great importance, and the rock upon

June 27<sup>th</sup>

At a Meeting at Lord Chancellors to consider further  
on the instructions to be sent to the Governor of  
Canada, R. Lordships was in a very ill humour indeed.  
He said he disapproved entirely of the foundation  
upon which they were planned & therefore would  
have nothing to do with them. That he had  
never seen the papers which came from Canada  
and could give information upon this matter.  
That he doubted if it was legal for the King to  
empower the Governor with or without His  
Council to establish Courts of Judicature, that  
it was necessary to bring matters of such weight  
before parliament. To all this a<sup>d</sup> D<sup>h</sup> Montagu  
answered that he imagined the powers given by  
the King could not be disputed, as it was founded  
on a similar practice in almost all the other  
Colonies, that that it could not be illegal since  
this very commission to the Governor under which  
he had these powers was under the Great Seal  
which Mylord Chancellor himself had affixed  
to it. That what we were now doing was only  
acting under that commission. Mr Murray  
had executed his former instructions for appointing  
Courts of Judicature & other matters in a way  
that was much disapproved of. we did not now  
pretend to give fresh powers, but instructions how  
to execute the former ones in a manner less  
exceptionable. Mylord Chancellor would  
make no other reply to this than that he  
did





which we split, or rather served as the match with which the Chancellor was permitted to fire the mine laid for the demolition of our weak Ministerial fabric."

"The Proclamation which issued in 1764, (this is an error, should be 1763) when the Duke of Bedford was President, and Lord Hillsborough at the Head of the Board of Trade, by which all the laws of Great Britain were introduced at once into the new acquisitions, had thrown the affairs of the Province of Canada into a good deal of confusion. The natives complained that their laws of property were overturned, and new ones established, to the principles of which they were as much strangers as the language in which the decisions of the Judge were to be pronounced. Governor Murray had framed local ordinances upon this Proclamation, which the Board of Trade had reported against, and things were in such a state that it was evident some new regulations were necessary. The papers relative to these disputes had, according to custom, in the course of the winter been transmitted from the Council Office to the Attorney and Solicitor General. They had (from the best information they could collect) prepared a report which, before it went in form to the Council, was to be considered by the Cabinet. It is not necessary to enter further here into the report, than by saying it was a plan for the Civil Government of Quebec, the principal line of which was to leave the natives to their old rights of property or civil laws, and to temper the rigour of their criminal code by the more equitable and generous meaning of the English law. At our first meeting on this report, the Lord Chancellor declared his absolute dislike to it, made several frivolous objections to particulars, and was absolutely for doing nothing till we had a complete code of the laws of Canada sent over, which was postponing the

whole business for a twelvemonth. His Lordship took this opportunity to complain of some trifling ill usage he had met with from the Secretaries of State in the transmitting of papers; and, in short, the meeting, which was at his house, broke up re infecta, and before another could be summoned, the Lord Chancellor declared he would attend no more."

The next quotation from the Duke of Richmond's Journal, refers to the same Cabinet meeting.

"1766 June 27th

"At a Meeting at Lord Chancellor's to consider further on the instructions to be sent to the Governor of Canada, H(is). Lordship was in a very ill humour indeed. He said he disapproved entirely of the foundation upon which they were planned & therefore would have nothing to do with them, that (he) had besides never seen the papers which came from Canada (1) and could give (no) information upon this matter, that he doubted if it was legal for the King to empower the Governor with or without His Council to establish Courts of Judicature, that it was necessary to bring matters of such weight before parliament. To all this L(or)d Dartmouth answer'd that he imagined the powers given by the King could not be disputed, as it was founded on a similar Practice in almost all the other Colonies, and that it could not be illegal since this very Commission to the Governor under which he had these powers was under the Great Seal which My Lord Chancellor himself had affixed to it, that what we were now doing was only acting under that Commission. Mr. Murray had executed His former

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(1) Many of these documents are part of the Duke of Richmond papers now in the possession of the author.

instructions for appointing Courts of Judicature & other matters in a way that was much disapproved of. we did not now pretend to give fresh powers, but instructions how to execute the former ones in a manner less exceptionable. My Lord Chancellor could make no other reply to this than that he did not pretend to be answerable for all he had sett the great Seal to, that these things came to him of Course & that he did not so much as read, or enquire about, them. and that he had at first when the D. (uke) of Bedford sent the first instructions to Governor Murray disapproved of the whole plan. It being however agreed to read the instructions, the Chancellor objected to several parts. first to the appointing Canadians being Roman Catholicks to act as justices of the Peace or as Judges, He doubted whether the crown could give that power to Roman Catholicks & whether the Penal laws did not extend to Canada. 2dly he objected to appeals from the Superior Courts of Judicature to the Governor & Council. He said they should be to the King in Council in England. 3dly (gap in MS) 4thly (gap in MS) His Lordship also said that he thought the old Canadian laws were to subsist till by the authority of Parliament they were alter'd. to this it was objected to him that the King had issued a Proclamation the of (1) in which he promised all his new subjects the Benefits and advantages of the English Law. to which His Lordship replied, I know that, & a very silly proclamation it was.

After much talk upon this affair the Chancellor concluded with saying that he disapproved of the principle upon which the plan was formed, that he always had done so & therefore could &

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(1) The date of the Proclamation from the original in the author's possession is Oct. 7th, 1763.

I would give no advice about it. I (Richmond) represented to His Lordship the difficulties we Labour'd under that the method in which Murray had executed his instructions was disapprov'd by every body (to which he agreed) that if we did nothing, we in fact confirmed every thing Murray had done & those very courts which He had established. that in altering we wished much to receive His Lordships advice and assistance, and to do what was really for the best that if His Lordship would point out what was wrong or illegal, and advise us what was better, we would certainly pay the utmost attention to it. that I had in particular refused to sign the instructions first without having his approbation of them & afterwards when I heard he disapproved. That every attention had been showed in appointed Councils at the times that might be most convenient to him, and that Lord Dartmouth had waited upon him with all the papers new material & the instructions previous to this meeting in order to give him time to consider of them & to make such alterations as he thought proper. That it was therefore very hard to object so far as to say that parts were perhaps not strictly legal, & thereby render it impossible for us to venture to do anything against such an opinion, and at the same time to refuse telling us what was wrong or advise us how to proceed. that if farther information was necessary His Lordship should have every paper he could wish & that if any neglect of that sort had happen'd it was certainly not design'd, & therefore I hoped he would not for a reason of that kind refuse His assistance & prevent our doing some real service to that Colony. His Lordship's answer was very short that he disapproved of the whole & would give no advice, that it was

true Lord Dartmouth had lately been with him & explain'd the whole, and that he would do him the Justice to say that the instructions upon this plan such as it is were very well drawn up, but that he could not assent to the principle upon which they were founded. that tho' he had now had information, he had never seen the first letters which were circulated in September or Nov. last, & that new Papers came to him so irregularly & so late that he could not read them in time to consider matters before they came to council. that it was ridiculous to expect him to give his opinion upon matters he was not prepared upon & therefore he declared he would attend councils no more. Other matters being taken into consideration they were determined on as appears by the minute of that day.

The next Council which was held was on July the 3d at my House when several matters were discussed as will appear more particularly in the minute of that day.  
\* \* \* \* \*

The Chancellor would not attend this Council as appears by His note. We therefore agreed to meet again on the            of July in order to Consider what could be done, whether any medium could be struck out so as not to leave the Province (Colony struck out) of Canada under its present bad form of Government so much complain'd of, and yett not act in opposition to the Chancellor's opinion. or if that was impossible, at least to take the opinions of the Att: & Soll: General and have the matter determined by the King in Council. for that it was absurd to neglect the business of the Country & not do what was right because one great Lawyer objected. Lord Egmont here very strongly declared His opinion was Contrary to the Chancellors (tho' he had not said so when he was present) and assured us that he would sett his hand to & abide by whatever we should agree upon with the Att: & Soll: General, but he could not attend us at the next Council

as he was going out of town. This Council met accordingly on the                      and                      " (Entry ends here)

LORD HARDWICK TO LORD ROCKINGHAM.

" St. James Square, June 30th, 1766

"I profess myself to be, in many respects, a very incompetent judge of what is proper to be done in Canada, but as far as I am master of my brother's report, I think he struck out, or pretty nearly so, the true medium; and I understand from him that the Canadians liked our free and impartial forms of judicature, and only desired to be left to their old laws and customs for private property. I doubt our great lawyer<sup>(1)</sup> will not agree in our ideas and perhaps the matter may now be postponed till Governor Murray's arrival, who can give further lights . . . . ."

On the 21st. of May 1767 the Duke of Richmond moved the Lords for papers relating to a plan for a Civil Government at Quebec. It had been drawn by the last

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(1) "Tom Tilbury", i.e. the Chancellor, Lord Northington. In several letters to and from my grandfather, I find this nickname applied to Lord Northington. The Hon. John Yorke, writing to his brother Lord Hardwicke, on the 19th July, 1770, "I see by the papers that old Tilbury had hobbled up to town again; I suppose he has been sent for to help forward some unsatisfactory change, and endeavour to divide the opposition. I always expect some mischief when I hear of the interposition of that sorry fellow."



ministers, and delivered to Lord Northington for his opinion, who had never thought more on the subject. The motion was levelled at him; and to please the Rockinghams, the Bedfords consulted with them at Richmond-House previous to the motion: but it was baffled by giving them the papers, after Lord Sandwich had been personally offensive in his speech to the Duke of Grafton.

. . . . . Accordingly, on the 2nd of June, 1767 the Duke of Richmond made three motions; one, a resolution that there ought to be a civil government established in Canada; the others implied censure on the neglect, and were aimed at Lord Northington. The latter denied his having thrice refused to attend the Council on that business; but the Duke of Richmond proved upon him that he had even written that refusal to Lord Winchelsea, the then President of the Council. Lord Mansfield did not appear in the debate, so deeply had he felt his late treatment. The Ministers rejected the motions by 73 to 61. This was reckoned a great victory after the Court had been so hard run in the last division. Both sides agreed to adjourn for ten days, considering the heat and lateness of the season.

F.X. Garneau in his History of Canada has this to say about these early attempts to solve the intricate problems of Quebec:-

"In order to relieve the general anxiety of mind, Governor Murray issued a proclamation, intimating, that in all legal process affecting the tenure of land and successions to property, the laws and customs which had been in use under the French domination were to be followed. This was reverting at once to legality; for if the British ministry had a right to alter the laws of the country without consulting the wishes of its people, it could only be done (at worst) by an act of parliament; a consideration which afterwards caused attorney-general Masères to observe, \*\*\*\*\*that the English laws had never been legally introduced to Canada; seeing that king and parliament together, but not the king alone, could exert rightful legislative power over that colony; hence it followed, that (the British parliament having as yet taken no part in the matter) the accustomed French laws must be recognized as existent *de jure*, if abolished or in abeyance *de facto*.

\* \* \* \* \*

The protestant party in the colony (notwithstanding the ruling of Masères), still insisted that the penalty oppressing the Catholics of the three kingdoms should be extended to their Canadian co-religionists."

It is indeed significant that a few weeks prior to the short-lived Whig administration of 1765 coming into office, a legal decision rendered by the Attorney and Solicitor General was literally the cornerstone of French Canadian freedom, without which the Quebec Act of 1774 could never have come into being.

. At that time in England the Test Act precluded Roman Catholics from holding any public office whatsoever; that is, Roman Catholics because of their religion, could not take the oath, and thus could not act as jurors, be members of the Legislative Council, or become officers in the British Army etc.

The legal document referred to above, follows. It is without question the most important legal decision in Canadian history:-

"To the Right Honourable the Lords  
Commissioners for Trade & Plantations.

May It please Your Lordships,

In Obedience to Your Lordships Commands signified to us by Mr. Pownall's Letter of the 7th Inst. directing us to consider, & report to Your Lordships Our Opinion, whether His Majesty's Subjects being Roman Catholicks, and residing in the Countries ceded to His Majesty in America, by the definitive Treaty of Paris, are or are not Subject in those Colonies to the Incapacities, Disabilities, and Penalties, to which Roman Catholicks in this Kingdom are subject by the Laws thereof.

We have taken Mr. Pownall's Letter into our Consideration and are humbly of Opinion, that His Majesty's Roman Catholick subjects residing in the Colonies, ceded to His Majesty in America by the definitive Treaty of Paris, are not subject in those Colonies to the Incapacities, Disabilities & Penalties to which Roman Catholicks in this Kingdom are Subject by the Law thereof.

All which is humbly submitted  
to Your Lordship's Consideration

Fle:ꝛ Norton

Wm. de Grey

Lincolns Inn  
10th June, 1765.

Garneau continues:-

"For a long time ere the present, the Canadians had been complaining to the British home authorities; but nothing short of an apprehension of what might betide from the serious troubles arising in the neighbouring colonies would have caused British ministers to deviate from the usual policy pursued in Canada. They now transmitted the ~~memorials~~ of the Canadians to the Board of Trade, by which these were submitted to the attorney-general (Yorke) and the solicitor-general (DeGrey). Pending official reports thereupon, the governmental ordinance of 1764 was disclaimed by an order of privy council, and another was substituted giving the Canadians a right to act as jurymen in specified cases; also allowing Canadian advocates to plead, under certain restrictions.

The report of the above-mentioned English crown-lawyers was presented in April 1766. (i.e. who are referred to by Richmond in his Journal of July 3rd, 1766). Those writers admitted the defectiveness of the system of 1764, and imputed the evils resultant therefrom to two chief causes; namely, 1. administration of justice in new forms and a foreign language, without the concurrence of the Gallic Canadians, who in the courts understood neither the pleas advanced, nor the decisions pronounced - the judges and barristers not speaking French, and most clients not comprehending English. This was found oppressive; as parties to suits were exposed to the evil chances of ignorance and corruption, or, what was nearly tantamount, they had no confidence in the enlightenment and probity of the English judges and practitioners.

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\* The italics are mine.

2. The alarm caused by the interpretation given to the proclamation of 1763, an interpretation which induced a belief that the intention of the government was to abolish the established jurisprudence of the colony. The (apparent) reason for abolishing which was not so much to extend the (supposed) advantages of English laws to the Canadians, or to protect more efficaciously their persons, property, and franchises, as to impose upon them, without any necessity therefor, arbitrary and novel rules, which would tend to confound and subvert rights instead of supporting them.

Messrs. Yorke and DeGrey also expressed their general approval of a new system of judicature proposed by the lords commissioners, one point being excepted. The latter wished to divide the province into three districts, and to establish a court of chancery, composed of the governor and his council; which chancery should also be a court of appeal, its decisions being liable to revision by the privy council of the king. Second, a supreme court, composed of a chief-justice and three puisne judges, one of them, at least to be cognizant of the French language and laws; it being held incumbent on all of them to confer, from time to time, with the most able Canadian advocates, in order to inform themselves of the olden jurisprudence.

After recommending the nomination of some Canadians to the magistracy, the reporters, on the understanding that the laws of England were to be retained, observed, "It is a maxim of the law



of nations, to allow the old laws of a vanquished people to subsist at least, till their conquerors substitute new, while it is oppressive and violent to change, suddenly, the laws of any country; hence wise conquerors, after having provided for the material security of their acquisitions, will innovate slowly, and let their new subjects retain all such usages as are indifferent in their nature, especially those which regard the rights of property. In the case of Canada, cautious policy is especially needed, it being a great country, long in possession of French colonists and improved by them..... We cannot introduce among them, at one stroke, English laws of property, with its forms of conveyancing, alienation, fines, its modes of shaping deeds and interpreting contracts, or our laws of succession, without committing manifest wrong, or at least occasioning the greatest confusion. Englishmen, who buy property in Canada, both can and should conform themselves to the laws regarding it therein, even as they already conform, in other parts of the empire outside of England, to local law and practice. English judges sent to Canada may easily, with the help of able Canadian practitioners, become acquainted with its laws, and be guided in their decisions by the legal practice they find established; just as, in the Channel Islands, our judges decide according to the legislation of Normandy." Finally, the reporters advised that the Gallo-Canadian laws, for civil procedure, should be restored, and proposed that the judges should make rules for the guidance of all the functionaries in the various courts.

Ignoring the considerations of enlightened policy upon which the renderings of the crown-lawyers were founded, their recommendations were not adopted."

In a letter addressed to Fowler Walker Esq<sup>r</sup>. (London Agent for the British merchants and traders in the Province of Quebec), dated July 17, 1767, Francis Maseres notes the activity in the Chatham administration towards some solution of the Quebec problems. This activity was mainly due to the efforts of Charles Yorke, who was Attorney-General in the previous Rockingham administration, and under the eye of Richmond:-

"I suppose you know that the report of Mr: Yorke and Mr:DeGray to the council upon the administration of Justice in this province though it was approved by the committee of council, yet was not confirmed by the council."

In another letter to Fowler Walker Esq<sup>r</sup>., Quebec, Nov. 19, 1767, he writes:

"I think Mr. Yorke's plan for the Administration of Justice a very excellent one, considering it was made in London by a man unacquainted with the people. But something more in their old stile would be much more agreeable to the Canadians. A plan of this kind is now drawing up by your humble servant together with a view of the civil government and administration of Justice in this province in the time of the French government, by the direction of the Lieutenant-governor in consequence of orders received from England, and will soon be transmitted to the Ministry."

Finally, a letter to Fowler Walker Esq<sup>r</sup>., dated Quebec, March 30, 1768:

"Mr. Carleton has just received by the December packet a formal assurance from Lord Shelburne by the King's order that he shall soon be Governour-in-chief; but he has not yet received his commission. He has likewise received an order of the king in council to inquire in conjunction with the chief Justice and attorney-general into the state of public justice in this province, and set forth to the king what are the laws now in force and practice here, what were the laws in the time of the French government, what parts of those laws deserve to be continued, how far it would be convenient to blend them with the English laws, and what would be the best plan for the Administration of Justice in this province and with the assistance of the council to reduce these things into the form of Ordinance of this province, but not to pass them into ordinances, but send them home to the king to be examined by him in council and, if approved, to be afterwards finally confirmed by authority of parliament. This I think is the right way of proceeding, though it will cut us out a great deal of work. I think it does the ministry credit, and am not ill-pleased to observe that it is in great degree the method that was suggested in the little pamphlet which I drew up for Lord Rockingham's ministry by Gen: Carleton's and Mr: Hey's direction.-----

I have lately received by the December packet a very kind and friendly letter from Mr: Charles Yorke\* in answer to two letters I had

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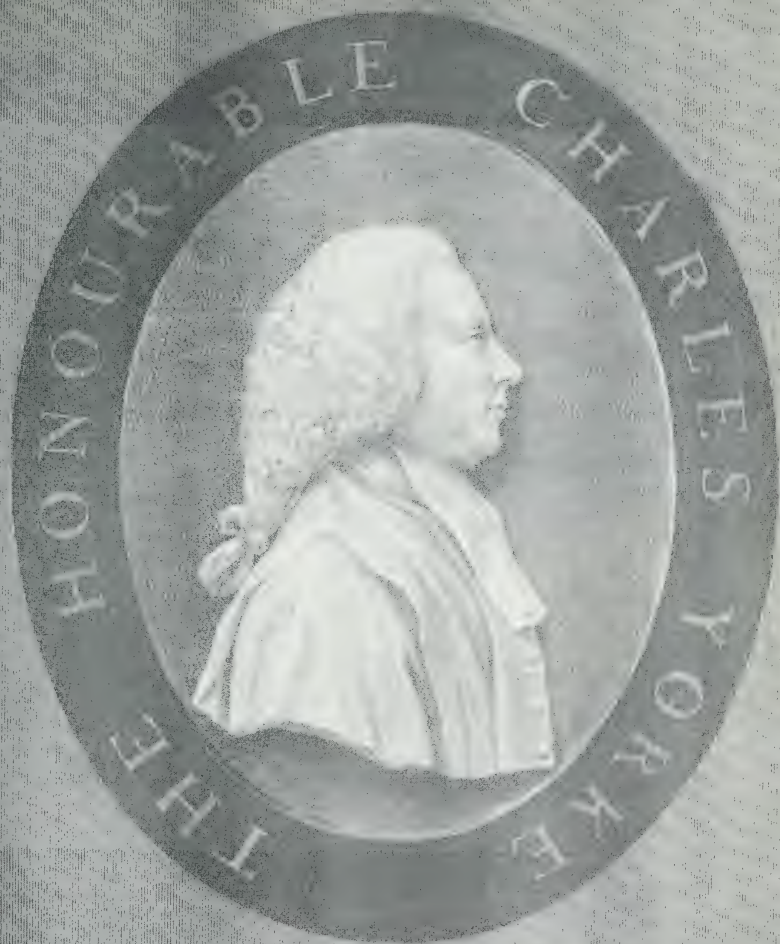
\* Charles Yorke (1722-1770), second son of the First Earl of Hardwicke, and his father's intellec-

writ to him, the one from Plymouth, while we were wind-bound there, the other from this place soon after my arrival in this province. He tells

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tual successor, had been solicitor-general from 1756 to 1761, and attorney-general during two periods, from 1762 to 1763 and from 1765 to 1767.

"Philip Yorke succeeded to the earldom of Hardwicke, on the death of his father, the celebrated Chancellor, in 1764. He sat for several years in the House of Commons as member for Cambridgeshire, under the title of Viscount Royston, and was a frequent and effective speaker in Parliament. He became subsequently Lord-lieutenant of the county, and High Steward for the University of Cambridge. In 1766 he was admitted into Lord Rockingham's cabinet. He was indeed a warm friend of that statesman, but, unable from the infirm state of his health to take any very active part in politics, he devoted the greater part of his time to literary pursuits. Lord Hardwicke was a writer both in prose and verse. While an undergraduate at Cambridge, he was a contributor to the "Athenian Letters". He published also "State Papers", and the "Life of Sir Dudley Carleton". Some of his poetical compositions may be met with in the Cambridge Collection of Verses. He was the friend of Birch, Soame Jenyns, and Dr. Young, all three of whom have dedicated some of their works to him. He was also in correspondence with Robertson, Hume and Gerrick. His private letters - convey a favorable impression of his abilities." (Memoirs of the Marquis of Rockingham and His Contemporaries - by George Thomas, Earl of Albemarle in two Vols. London 1852.)



by del<sup>d</sup>

M<sup>rs</sup> Bore sculpt

Natus Jan. 10. 1723, Mortuus Jan 20 1770.

*From a Model in Wax done by Gossell in 1760*





me all the particulars of the proceedings of the privy council relating to his report, and says that it would actually have passed, notwithstanding the difficulties it met with from Lord Northington's opposition if the ministry had not suddenly changed.\*\* I hope soon to answer this letter and in the mean time I beg you would present my respects to him."

As attorney-general he had had much to do with the early steps toward settling the form of government in Quebec; and there is reason to believe that the report of April 14, 1766, signed by himself and William DeGrey, the solicitor-general, was almost wholly his work. It was to him largely that both Chief Justice Hey and Maseres owed their Canadian appointments; for in the Hardwicke Papers there is a note signed "H" (evidently the second Lord Hardwicke) which runs, "Mr. Hay - recommended by my brother in 1765, also Mr. Maseres for Atty Genl." in January, 1770, Yorke was appointed lord chancellor, but he died three days later before entering office.

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\*\* In July, 1766, the Rockingham administration was succeeded by the Chatham administration; and Yorke, whom Chatham could not forgive for his attitude in the Wilkes case, was replaced as attorney-general by William DeGrey.

## CHAPTER V

### A ZEAL FOR FREEDOM

The Duke of Richmond resigned office on the accession to power of the Earl of Chatham. In the various debates which led to the American Revolutionary War, Richmond was a firm supporter of the colonists. He also advocated a policy of concession to Ireland - and originated the famous phrase "A union of hearts". In 1779 the duke brought forward a motion for retrenchment of the civil list, and in 1780 he embodied in a bill his proposals for Parliamentary reform, which included manhood suffrage, annual parliaments, and equal electoral areas. Richmond fought George III at every turn. Because he considered himself as Prince of the blood (in spite of his bar sinister), plus the King's affair with his sister, combined to produce this bitter opposition to His Majesty, who was it must be remembered of practically the same age as the Duke himself. He (Richmond) believed in curtailing the power of monarchy and relegating a good portion of that power to Parliament. He sat in Rockingham's second cabinet as master-general of ordinance, and in 1784 he joined the ministry of William Pitt. It is rather disappointing to reflect that the Duke in his later years, developed strong Tory opinions and his alleged desertion led to a violent attack on him by Lauderdale in 1792. The occasion was the celebrated debate on the Royal Proclamation, in which the Prince of Wales and the Duke of Portland's friends separated themselves from Fox's foreign policy. "There is a camp," Lord Lauderdale cried, "to be formed at Bagshot, to overawe the people of the capital, and to stifle their efforts for reform. I declare I am glad the noble Duke is to com-

mand that camp. If apostasy can justify promotion, he is the most fit person for that command, General Arnold alone excepted." On this Richmond stood up and denounced "these impertinent personalities," and thereupon Lauderdale challenged him, and in return was challenged by Benedict Arnold, but a duel was prevented by the interposition of friends.

Possibly one of the main reasons for this reversal of policy might have been the brutality which finally resulted from the French Revolution and as we already know, some of the French nobility were kin to Richmond. In the beginning he was most sympathetic to the revolutionary cause. It must be said for him, however, that he was not alone in a reversal of policy. The final bloody chapter of the French revolution was responsible for more than one reversal of opinion from the side of liberalism.

Richmond died in December 1806, and leaving no legitimate children, he was succeeded to the peerage by his nephew Charles.\*

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\* See Appendix, page 135.

## THE DUKE OF RICHMOND TO THE MARQUIS OF ROCKINGHAM

### I.

Concerning his conciliatory attitude towards the American colonists there is this letter to the Marquis of Rockingham -

"Goodwood, August 19th, 1777

"I am sorry to find that you continue to entertain so gloomy an opinion of the state of affairs. In one sense indeed it gives but too much room for melancholy; it is by misfortune and by feeling the bad effects of the present measure, that more salutary ones will be adopted. We must grieve at the means, but they are coming on apace; it becomes daily more and more evident that we cannot succeed in reducing America. It is said and I believe truly, that this war has already destroyed 30,000 Americans and 10,000 English; it has cost us fifteen million, and will cost us as many more, in articles furnished and not brought to account, though we should make peace to-morrow. You will very properly ask me whether I see any prospect of good from a change? To that I answer, much will depend upon circumstances and events. We cannot be in a worse way than we are at present; some of the misfortunes themselves which are present measures tend to, will be a less evil, as they may teach us to stop in time to prevent the remainder, and such I verily believe will be our case. The disposition the nation will then be in, will determine whether more or less good

can be done."

"I believe it is also true, that a very great man said, within these few days, that he expected accounts of a general defeat very soon: We shall certainly know more particulars before the meeting of Parliament, and although I think they ought not, I know they will have a great effect both on majority and minority, and on the public, according as the army has been more or less successful. For my part, I cannot think the condition of the British Empire bettered by one part of its forces having lost several thousand men in butchering as many more of those we vainly wish to call our subjects; nor can I think that any victories, or any submission, can secure to us the possession of a country we have so unpardonably injured.<sup>\*</sup> But yet I know that if our troops have success, the nation will be ready to go on with another campaign, and it will only be if our troops fail we shall feel the impracticability, absurdity, and wickedness of our present proceedings. But although I am sensible how much good or bad news will affect the feelings of men at the opening of the Session, I do not think it ought to affect our proceedings, being convinced that this war was originally unjust, that its continuance is ruinous, and that even success would be dangerous. We must continue to show our abhorrence and detestation of it. Whether we should do so by actual opposition, or by secession, is a question. But it is high time it were decided. As I think you will be glad to collect the opinion of your friends upon that subject, I am ready to give you mine. I believe that a general and total secession of all parts of opposition, with strong reasons offered to the King or the public, might have a good effect. But we have found this impossible. Not only all parts of opposition would not agree to it, but even our own friends could not be brought to be of a mind either in staying away or in

\*The Italics are mine.

giving reasons. To pursue it at present seems to me a weakness that will tend to our dissolution; for it is activity alone that can keep up party. Burke's defence of our conduct is ingenious, (1) but when some of our principal friends will not adhere to it, we condemn ourselves, and in truth there is much to be said for not giving up attempts we know to be right, from a despondency of success. But whether the measure was originally right or wrong, it has been tried and failed. I am, therefore, clearly of the opinion, that it ought now to be abandoned, and that we should resume active opposition. I will say, too, that the people begin to feel the continuance of the war, the losses, the taxes, the load of debt, the want of money, and the impossibility of such success as to reestablish a permanent tranquillity. I am far from being sanguine in hoping to be able to reverse the present system at present; but if we push inquiries this winter upon the misconduct of the war; if we bring to light the infamous jobs that are carrying on; if we call forth the attention of the nation to the losses, to the expenses; I do not despair but that the bad successes which must attend another campaign, and chiefly the little advances our armies can make, will by that time operate to some effect. Your Lordship may say, And what then? Can we be mad enough to undertake the Administration in the present wretched state of our affairs, if we could get rid of the present set of men? I say, certainly not, if we can only bring about a suspension of the present evils, and are not allowed to eradicate the cause, I mean the overgrown influence of the Crown,\* which must be much curtailed indeed before any real good can be done, such a reformation can only be brought about by a Minister called for by the voice of the

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(1) Burke's "Address to the Sheriffs of Bristol".

(2) The Italics are mine.



nation, feeling deeply under calamity. To let them arrive at the last period of it would be too late for recovery; to induce them to call in time we must be active in pointing out and making them sensible of the dangers the present system exposes them to, and fairly avow the remedies we would substitute. Experience of the truth of our predictions may give them confidence, and when they know our plans, they know what they have to look up to. This may succeed, but I would at least contend for the only honourable way of succeeding, I might add the only safe way." . . . .

## II.

And again to Rockingham about a proposal to repeal the Acts in favour of the Roman Catholics:

The Duke of Richmond to the Marquis of Rockingham:

"Ranmer Camp, Dorking.  
Monday morning, June 12th, 1780.

"My dear Lord,

. . . . .

Lord Egremont, who went through Guildford yesterday, left word with Mr. King whom he saw there, that your Lordship and Charles Fox with others wished much to see me to talk about what is to be done, and particularly concerning the petition to repeal the Acts in favour of the Roman Catholics.

My mind is made up never to consent to that measure, but to oppose it, and have no better support than the folly and wickedness of the present Ministers and councils, is not prudent or wise. I have long seen, and at last said, that nothing but misery, wretchedness, and ruin are to be expected. I do despair of the State. I never should despair seeing the domestic enemies it has, and their power. All attempt to meddle is sure to return nothing but additional vexation; I have long thought so, and the late times have not altered my mind, or diminished my aversion to interfering with public business. If the nation can so tamely bear all it has borne, and the evident loss of their own liberty without stirring, and will submit to be led by Scotch fanatics, (against Roman Catholics) and to the tune of the bagpipe, - set New-

gate loose, and burn London, turning against the best friends of liberty, and confounding them with its worst enemies, such a nation cannot be saved.

I mean to go no more to London this year, and probably never to Parliament again. But in every situation of life, my warmest affection (for liberty) will ever make me show myself . . . . .

### III.

On Parliamentary Reform the Duke of Richmond wrote

"Saturday night, May 11th, 1782

"I do not wonder that Lord John, who is diffident to the effect of any Parliamentary Reform, should dislike a fresh attempt to get a committee appointed now; but indeed, my dear Lord, if you think my services in the present Administration useful, you must support me in this measure. You know it was my bargain. I do not wish to tie you down to my plan, or to any particular measure. I only ask to have the Committee; I trust to them for the measure, and only contend for some plan being adopted. My credit, as well as my opinion, bind me to require this. I have no right to insist on others giving up to me; but if I am wanted I have the best right to insist on the terms which to me appear essential to enable me to serve you well: and essential to you. I do not say this to you, but to those who call for assistance against the power of the Crown, and yet will not let the people have their just share, and expect men to serve them with giving up their credit. I believe no man can say with greater truth than I that he should prefer a retired life. I am daily sacrificing my health and the comforts of my life for the public, and should be happy to retire, and see things go on well in other hands than mine; but if I am to give up so much, and am really wanted, those who call upon me should first make up their minds to the terms on which alone I can serve them with credit, and choose to have me on those conditions, or not at all: for it would only ruin me, and disable me from serving them, if I could act contrary to my opinions in so essential a point as

this; and those opinions clearly are, that unless some essential parliamentary reform takes place, all we do will be undone; we shall be made use of only to face a moment of extreme danger, which, if we can stem, and restore security, we shall also restore the means of reverting to the old system. I do see this so clearly, and that a parliamentary reform can alone prevent it, that I cannot be concerned in being thus duped, and in duping the nation. Therefore, if I do not see some fair prospect of such a measure as a parliamentary reform, I must retire, and the more so as I see that if we all set our shoulders to it, this is the moment when it can be carried - a moment never to be recovered. I do not mean by a hasty conclusion this Session, but by that earnest, a committee.

And I am very sure that a committee, doing but little, will satisfy, but that if a committee is continued to be refused, much more will be required; if, as in that case they must, the people without doors urge their claims, and demand their rights."

How prophetic are the words of the 3rd Duke of Richmond to-day. Here was a champion for every liberal cause:- for Parliamentary reform; for diminishing the power of the King; for the people of Ireland; for the French Catholics in Quebec; for the American colonists. If there is one outstanding quality that should be everlastingly remembered about the 3rd duke of Richmond it is not his administrative qualities - nor his personal snobbery - but his hatred for tyranny and his overpowering zeal for freedom.





APPENDIX



*Lenox 3<sup>rd</sup> Duke of Richmond.*



On the 4th of December 1752 James Wolfe writing to his father\* gives this observation on the 3rd Duke of Richmond:-

"The Duke of Richmond is in Paris. I have met him sometimes at Lord Albemarle, and by that means have the honour to know him. As far as my discernment goes, he promises to make a considerable figure in our way, to which his genius seems to lead him, and what is uncommon at eighteen he is not entirely taken up with the outward appearances and gildings of soldiership, but aims at the higher and more solid branches of military knowledge."

\* \* \* \*

On January 2, 1753 Wolfe in a letter to his mother tells us that -

"The Duke of Richmond offered me a place in his coach, an honour that I could not refuse, especially as Lord Albemarle was so kind as to give me a room at his house, with invitation to sup with him."

\* \* \* \*

"The Duke of Richmond is to have a company in Lord Bury's regiment; he wants some skilful man to travel with him through the fortified towns of the Low Countries and into Lorraine. I have proposed my friend Carleton, whom Lord Albemarle approves of; but as things may take another turn, it must not be mentioned."

That same month on January 10th Wolfe writes his father:-

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\*The life of Major-General James Wolfe Founded on Original Documents by Robert Wright, London 1864.

"The Duke has consented to Carleton's coming abroad to attend the Duke of Richmond as a military preceptor in his tour through the fortified towns of the Low Countries. It will be of singular use to the young man, and I hope of great service to my friend."

\* \* \* \*

Mrs. Wolfe was displeased that her son had not offered himself for the military tutorship of the Duke of Richmond. In a letter written on the 19th January, he acquits himself thus:-

"You have known me long enough to discover that I don't always prefer my own interest to that of my friends. I was asked if I knew a military man fit to accompany the young Duke, and immediately named Carleton, who is appointed to attend him. It would have been as easy for me to hesitate about the question, and afterwards to have offered my services; but, exclusive of my liking to Carleton, I don't think myself quite equal to the task, and as for the pension that might follow, it is very certain that it would not become me to accept it. I can't take money from any one but the King, my master, or from some of his blood. The Duke of Richmond's friendship will be an honour to me, provided he turns out well, and serves his country with reputation, which I think is very likely to happen. If he miscarries from bad principles, I shall be the first to fly from his intimacy."

\* \* \* \*

Again one notes on November 1755 that the Duke of Richmond obtained a captaincy in the regiment under Wolfe.

\* \* \* \*

From The Life and Letters of James Wolfe by Beckles Willson, London 1909.

"That summer England had a distinguished visitor in the person of the Prince of Nassau, who went about examining all the sights with considerable enthusiasm. He figured as the guest of the Duke of Richmond (whose military tutor had been Guy Carleton) who placed his town house in Whitehall at the Prince's disposal and carrying him off to Newmarket, Epsom and Goodwood. A few weeks after the Prince's arrival his host brought him down to the regiment and introduced him to Wolfe, for whom he entertained a high opinion. About the same time there arrived at Southampton eight regiments of Hessian troops, under Count d'Isembourg. We are told that they made "a fine appearance, being generally straight, tall and slender. Their uniform is blue, turned up with red and laced with white; and their hair plaited behind hangs down to the waist." But it was their splendid discipline which attracted Wolfe's regard."

\* \* \* \*

Writing to his father the General on September 1st, 1756, Wolfe states:-

"The Prince of Nassau is going away, and the Duke of Richmond means to entertain him a day or two at Goodwood before his departure, and we see the Hessians exercise as we go along. The Duke proposed this party to me, and undertook to get

the General's leave. There was too much pleasure and too much honour in his Grace's offer to be refused. Tomorrow morning four of the Hessian battalions and some artillery exhibit the Prussian discipline; after which we are to breakfast with Count d'Isembourg, their General, and dine at the Duke of Richmond's, which is five-and-twenty miles from hence."

\* \* \* \*

"The Duke of Richmond talks of visiting the two camps in Kent, and he will, if I am with him, do us the honour to drink a dish of tea at your house. He has expressed a desire to see you; whence that curiosity arises I can't well imagine, but so it is. I send you both my best wishes."

\* \* \* \*



## GUY CARLETON

Guy Carleton, later Lord Dorchester (1724-1808) served in 1759 as quartermaster-general under his friend Wolfe. Wounded at the capture of Quebec, he was promoted to the rank of brigadier-general. He was governor-general of Canada from 1766 to 1778 and again from 1786 to 1796. No subsequent governor-general served so long or so well. He ordered the first codification of civil law of the Province, and was largely responsible for the Quebec Act of 1774 which greatly endeared him to the French-Canadians, and did much to hold them neutral during the American War of Independence, and later amid the ferment of the French Revolution.

Although he disapproved the Constitutional Act of 1791 which divided the provinces into Upper and Lower Canada, his administration was the bulwark upon which rests the structure of Canadian Constitutional Government today.

\* \* \* \* \*

Guy Carleton had just replaced Governor Murray in Canada, and one of the most difficult legal problems he had inherited from his predecessor was the famous Walker case. The following letter, part of the Duke of Richmond Papers in possession of the author, describes some of Carleton's difficulties.

(Duplicate)

Quebec 17th Jan<sup>r</sup>. 1767.

Sir

Tho' your Province does not afford me an Opportunity to Correspond with you as Secretary of State, yet as it was you, Sir, who first desired, by the Duke of Richmond, I would take this Command, I shall, in some measure think myself accountable to you for my conduct, as long as I remain here as Governor, and I hope this will appear as sufficient Excuse for my troubling you with a Narrative of some Transactions, too minute to be laid before His Majesty: this seems to me the more necessary, as I learn from other Provinces, some Persons here are very industrious, in their Letters, to represent me as a Party Man, and chiefly for having taken the Part of Mr. Walker against the Officers, as they are pleased to represent, what I thought necessary to secure the Peace and free Course of Justice. The whole of my Conduct in that Affair is comprised in my transmitting to Sir Harry Moore, when formally called upon so to do, the Depositions against fourteen Military Persons, then supposed to be in the Province of New York; in having wrote to the Commanding Officer at Montreal, in Consequence of a formal Request, to grant the Civil Magistrate what Assistance he might require, to arrest the six Gentlemen there,

against whom Warrants were issued; in my having refused to set them at Liberty, when the Chief Justice declared their Case not Bailable; and in my having removed from Council Lieut<sup>t</sup>. Colonel Irving and Mr. Mabane for the Manner in which they supported this Request; for tho' as Gentlemen, or Officers, I must suppose them incapable of the Crimes laid to their Charge, still it will be granted, that Innocence never requires the Governor should overturn the Laws, or disobey the King's Commands, Nor does Innocence require the Protection of Cabal, Intrigue, or Tumult; this I have curbed, and would have done, had the Request itself been in my Power to grant. I from the first looked on the Opinion that I could set them at Liberty, to be broached by the Party and Persons I formerly reported to be looking out for every Opportunity to create some Disturbance, with the View, either to set me at Variance with the King's Lawyers here, or to throw some Odium upon my Government, under the Pretence of having taken a Party against the Officers; their conduct throughout has confirmed me in this Opinion, and required some Mark of Disapprobation, especially in a Place where a general Mutiny of the Garrison had happened, without any Man's being called to an Account for that Disorder; and on the Revival of an Affair, what had already caused so great confusion in the Province. You I dare say will remember, Sir, how little anxious I was to obtain this Command, how much I approved of Mr. Murray's still Keeping the Commission of Governor, and I hope you will believe me when I add, I wished for nothing more than to reconcile all Differences; and to be in some Measure the Cause of Mr. Murray's Return; I set out determined to support his Measures, as far as with Propriety I could, and to countenance his Friends, not out of Civility to him, but Respect to the King's Governor; I delayed putting Mr. Allsopp, a Gentleman of good Character, into the Office of Secretary of the Province etc., because he had re-

fused it; I got Mr. Walker's Friends to persuade him, not to apply for the Commission of the Peace, for the same Reason; I continued Mr. Richard Murray, a young Man you must have heard of, in the Office of Register, with all the Emoluments of Judge of the Prerogative Court, reserved to myself by the King's Instructions, because under his Protection, a Compliment, I believe, not very common; Mr. Rouville I confirmed in an Employment he had lately created, for private Services done him a little before his Departure, tho' I doubt of the Approbation of the Treasury, and am certain no Body could expect such Services should have any Merit with me, Mr. Rigauville, for the same, I continue in Possession of the Garden and Garden house belonging to the Governor; I refused to reinstate young Mr. Gregory in an Employment that had been taken from him, and given to Mr. Shepherd; even Mr. Mabane, notwithstanding his Character, could complain of no Want of Civility from me, because raised by, and in Friendship with Mr. Murray; and yet these Gentlemen impatient to put their Scheme in Execution, tho' I had often said I could not immediately be acquainted with the Forms, and should think myself obliged to such as would put me right; tho' I had acquainted Captain Cuthbert, I would avoid calling a full Council while he was in Town, because I had then Doubts, whether he as thirteenth Member could be admitted, and did not care to leave him out alone; tho' I persuaded the Members who brought out the King's Mandamus to delay desiring their Place above those only named by Mr. Murray, and who had not received the King's Approbation, 'till I could hear from home, in Order to keep them all in Peace; but Peace was not their Scheme, they sent me the Remonstrance, you must have seen, almost on my Arrival, by Lieut<sup>t</sup>. Colonel Irving, with whom I had put myself on a Footing of Confidence, who knew and approved of all that had passed

notwithstanding I continued the same Attention towards them, 'till the Bustle about Bail, for I did not return my Answer, till after that Event; this was going too far to pass unreprimanded, I could have wished it had been in my Power to have separated Lieutenant Colonel Irving from Mr. Ma-bane, but he had been made so apparently the Head of this Party, had asserted I could set the Prisoners free on Bail, by the King's Instructions, which he knew as he had them some Time in his Hands; so that it was not in my Power, without visible Partiality, At the same Time I must say, I should be sorry it hurt him further, as I am persuaded it proceeded entirely from a Want of Understanding, and tho' he has been misled in this Affair, he is an Officer that has served many Years, and I believe a good Subject.

In this Manner have they been treated, and confirmed in all they could have expected even from Mr. Murray, if I except Mr. Ainslie alone, to whom I refused the Grant of a large Wharf, he claimed a Promise of from the General, because I thought such Grant detrimental to the public Trade of this Place; I have discountenanced all complaints against Mr. Murray, and Addresses in my own Favour, and went so far as to send a Message to those who were putting about one of the latter to be signed, that the same Post that carried it out of the Province, should also carry my Petition to be recalled, and it certainly should for many good reasons both public and private; In this Manner have I acted towards them, while they represent me as the Head of a Party against them; In return no sooner a Pacquet arrives, but those Persons, mostly Men in Place, or with Commissions as Magistrates, report that they have received Letters from Mr. Murray, that he assures them he is coming over immediately, that he will

crush his Enemies, as they are pleased to call them, that I am a Man of no Consequence, of no Interest, as the World may judge, by Boyd's being put over my Head, with much more, I must suppose Mr. Murray incapable of saying, I therefore willingly allow all the rest of their own Invention, still it proves, tho' they be in an Error, that they imagine this Conduct must be agreeable to him, that it will forward his Cause, will be supported by him at home, and that he will soon return to reward them for such Services, it also proves that the King's Service requires an End should be put to these Contests; 'til a matter of Indifference to me, how soon I return, but far otherwise while I do remain, that I preserve the Peace, and secure the Free Course of Justice; I care not how many abusive Letters they write, but should be sincerely concerned, if any Part of my Conduct should meet with your Disapprobation;

Being with much Regard and Esteem

Sir

Your much Obligated and  
Obedient Servant

Guy Carleton

P.S.

Annexed is a copy of Lieut<sup>t</sup>.  
Col<sup>l</sup>. Irving's Letter to the  
Members of Council who with  
him signed the Remonstrance,  
which, with their Conduct since,  
will shew how far I had penetrated  
their Schemes, when I wrote my  
first Letter to Lord Shelburne.

---

Right Honorable Henry Seymour Conway Esq., One of  
His Majesty's principal Secretaries of State.



Copy of Lt. Col<sup>l</sup>. Irving's Letter  
to W. Murray Esq. etc., accom-  
panying Lt. Gov<sup>r</sup>. Carleton's  
Answer to their Remonstrance  
of 13th Oct<sup>r</sup>. - Quebec 3<sup>d</sup>. Dec.,  
1766

Gentlemen

The Lieutenant Governor's Answer to the Remon-  
strance of the 13th of Oct<sup>r</sup>. Accompany's this;  
in the first Paragraph of which, I am called upon  
to explain my Reasons to you Gentlemen, for say-  
ing your not being summond to Council on the 9th  
of Oct<sup>r</sup>. last, happened by Accident; I give you  
the Truth of this, as follows.

The day before I delivered the Lt. Governor the  
Remonstrance I acquainted him with our Inten-  
tions, and told him when walken in his Garden,  
that the Gentlemen who had not been called to the  
Council, were much mortified at being left out; -  
his Answer was to the best of my Remembrance,  
they had no Reason, it was no Council; whether  
or not my Choice of Words, to communicate the  
Lt. Gov<sup>r</sup>. Meaning was proper, I submit to bet-  
ter Judges, certain I am, that I did it with the  
best Intentions to the King's Service; as I wanted  
to prevent the first paragraph of the Remonstrance,  
as much as I did the Resolution, which some of you  
hinted at, to resign your Seats, rather than be sub-  
jected to any future Mortifications. I remember  
that I further told y<sup>e</sup>. Lt. Gov<sup>r</sup>. that we were of  
Opinion, that Mandamusses gave no precedency;  
and that I hoped it was very justifiable to contend  
for one's Rights; and I think Gen<sup>l</sup>. Carleton's  
Answer was, to be sure, and that was the part of  
the Remonstrance, I was chiefly concerned in. -  
after our Conversation was finished y.<sup>e</sup> Gen<sup>l</sup>. de-

sired I would take the Trouble to invit them to  
Dine with him, and than he would talk the Affair  
over with us.

I have the Honor to be

Gentlemen

Your most Ob:

Quebec  
Dec<sup>r</sup>. 3<sup>d</sup> 1766.

To W. Murray, A. Mabane, F. Monier T.  
Cuthbert Esq.

N.B. The above taken from a Copy in Lt.-Colonel  
Irving's own hand writing, but not signed.

Carleton's letter to Conway not only shows that the new Governor of Canada owed his position to Richmond but that there existed a stronger attachment; an affiliation between Carleton, and Richmond, and Richmond's father-in-law Conway. This explains why Carleton wrote to Conway when Conway was no longer Secretary of State,\*which position at the time was held by Shelburne.

Furthermore, the fact that this letter is only part of a much larger group of documents known as the Duke of Richmond Papers, now in possession of the author, shows how important the Duke of Richmond regarded Canadian affairs. Some of these documents have a notation written upon them of having been placed before the House of Lords so it is quite reasonable to presume that they were used during the numerous debates in that House on matters of Canadian importance. It is with a feeling of pride and interest that the author, while writing this essay, has before him the very papers which were laid before the House of Lords when the Duke of Richmond started his great campaign in favour of revising the laws of Canada which ultimately led to the Quebec Act.

The short-lived Whig Administration, July 1765 to August 1766, was led by men of strong liberal tendencies. One can understand now why Carleton, influenced by Richmond and Conway, was so much in favour of the Quebec Act and the emancipation of Roman Catholics in Canada even going contrary to the advice of his Attorney-General, Francis Maseres, who, although a Whig, was a strong Huguenot.

One can understand now why Carleton was in the beginning so liberal in his conduct toward the American rebels even allowing their army to escape during the early stages of the American Revolutionary War.

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\* for the Colonies

Many of the questions Prof. A.L. Burt asks in his booklet entitled "Guy Carleton" \* can now be resolved. When Prof. Burt refers to Carleton as the father of the Quebec Act, one could also say that the mother of the Quebec Act was Richmond and his associates who, during their short term of office in the Rockingham administration, fostered a new colonial idea that non-English people could retain their distinctive character without being penalized for being Roman Catholics, and preserve their civil laws and customs, their leaders could now take posts under the government and commissions in the army, that is, they could still be British without being English.

This idea finally came into being in the Quebec Act of 1774 and although Carleton was instrumental he was not alone in its achievement.

\*Published by the Canadian Historical Association  
Ottawa, 1955.

## DUC de CHOISEUL

The political fate of Etienne François Duc de Choiseul 18th century French statesman seemed to depend more or less upon women.

He acquired a large fortune by his marriage in 1750 with a daughter of the marquis de Châtel. He gained the favour of Madam de Pompadour and had the direction of the French foreign policy during the Seven Years War.

Although from 1761 to 1766 his cousin César duc de Choiseul-Praslin was minister of foreign affairs Choiseul himself continued to hold the policy of France until 1770, as well as the most important offices of state. He reformed the army and navy, and although too late to prevent the loss of Canada and India, he developed French colonies in the Antilles and San Domingo, and added Corsica and Lorraine to the possessions of France.

After the death of Madam de Pompadour in 1764 his enemies led by Madam du Barry were too strong for him and in 1770 he was ordered to retire to his estate at Chanteloupe.

\* \* \* \*

Biographical Sketch of Henry Seymour Conway  
(from the Encyclopaedia Britannica).

"Henry Seymour Conway (1721-1795) was the younger brother of the Earl of Hertford. He was a British soldier and statesman. In the Rockingham ministry of 1765, Conway took office as one of His Majesty's principal secretaries of State with the leadership of the House of Commons. His sympathies in the dispute with the American Colonies were with the colonists, and in 1766 he carried the repeal of the Stamp Act. In January 1768 offended by the growing influence of the Bedford faction which joined the Government, he resigned the seals of office, though persuaded by the king to remain a member of the cabinet. However, when Lord North became Prime Minister, Conway resigned from the cabinet. He was made field-marshal in 1793 and died on July 9, 1795."

Conway's policies were liberal and far-seeing. He believed in conciliation with the American colonists as did those who were affiliated with him, such as the Duke of Richmond, Governor Guy Carleton and Francis Maseres. His brother, the Earl of Hertford, was ambassador to France from 1763 to 1765.





*Sir Joshua Reynolds*

THE NATIONAL GALLERY, LONDON



In a letter to T. Wharton, Esq., Philadelphia, dated London, February 20, 1768, we get the following interesting information written by Benjamin Franklin concerning Conway: \*

"To T. Wharton, Esq., Philadelphia.

Dear Friend,

London, Feb. 20, 1768.

The story you mention of Secretary Conway's wondering what I could be doing in England, and that he had not seen me for a considerable time, savors strongly of the channel through which it came, and deserves no notice. But since his name is mentioned, it gives me occasion to relate what passed between us the last time I had the honor of conversing with him. It was at court, when the late changes were first rumored, and it was reported he was to resign the secretary's office. Talking of America, I said I was sorry to find that our friends were one after another quitting the administration; that I was apprehensive of the consequences, and hoped what I heard of his going out was not true. He said it was really true, the employment had not been of his choice, he had never any taste for it, but had submitted to engage in it for a time at the instance of his friends, and he believed his removal could not be attended with any ill consequences to America. That he was a sincere wellwisher to the prosperity of that country as well as this, and hoped the imprudencies of either side would never be carried to such a height as to create a breach of the union, so essentially necessary to the welfare of both. That as long as his majesty

\*Memoirs of the Life and Writings of Benjamin Franklin, etc. London, 1833. (Vo. III P.295)

continued to honor him with a share in his councils, America should always find in him a friend, &c. This I write as it was agreeable to me to hear, and I suppose will be so to you to read. For his character has more in it of the frank honesty of the soldier than of the plausible insincerity of the courtier; and therefore what he says is more to be depended on."

In a letter to the Hon. Thomas Cushing, Esq., dated London, July 7, 1773, Benjamin Franklin notes the many friends and wellwishers the Americans had in England:-

"..... With regard to the sentiments of people in general here, concerning America, I must say that we have among them many friends and wellwishers. The dissenters are all for us, and many of the merchants and manufacturers. There seems to be even among the country gnetlemen a general sense of our growing importance, a disapprobation of the harsh measures with which we have been treated, and a wish that some means may be found of perfect reconciliation. A few members of parliament in both houses, and perhaps some in high office, have in a degree the same ideas, but none of these seem willing as yet to be active in our favor, lest adversaries should take advantage and charge it upon them as a betraying the interests of this nation. In this state of things no endeavor of mine, or our other friends here, "to obtain a repeal of the acts so oppressive to the colonists, or the orders of the crown so destructive of the charter rights of our province in particular," can expect a sudden success. By degrees, and a judicious improvement of events, we may work a change in minds and measures, but otherwise such great alterations are hardly to be looked for." (P.352 Vol.III)

Even during the American War for Independence a group of Left Wing Whigs, sympathetic to the American cause continued to meet in all probability at a prominent member's house at Whitehall, as this letter of Dr. Benjamin Franklin attests.

Letter from Dr. Franklin to a friend in England, on the subject of the first campaign made by the British forces in America. \*

Philiadelphia, 3rd October 1775.

Dear Sir,

I am to set out to-morrow for the camp, and having but just heard of this opportunity, can only write a line to say that I am well and hearty. - Tell our dear good friend \* \* \*, who sometimes has his doubts and despondencies about our firmness, that America is determined and unanimous; a very few Tories and placemen excepted, who will probably soon export themselves.

- Britain at the expense of three millions, has killed 150 Yankees this campaign, which is 20,000 £ a head; and at Bunker's Hill she gained a mile of ground, half of which she lost again by our taking post on Ploughed Hill. During the same time 60,000 children have been born in America. From these data his mathematical head will easily calculate the time and expense necessary to kill us all, and conquer our whole territory. - My sincere respects to \* \* \* \* \*

and to the club of honest Whigs at (Whitehall?)  
\* \* \* \* \*

Adieu, I am ever

Yours most affectionately,

B.F.

\* \* \* This could have been Doctor Price with whom Benjamin Franklin corresponded.

\* \* \* \* \* This could have been Conway who beside his political pursuits also wrote several plays.

The recipient of this letter was Doctor Joseph Priestly with whom Benjamin Franklin corresponded and who also answers the description of the Editor as to literary merit, etc.

\* From Political, Miscellaneous and Philosophical Pieces; etc. written by Benj. Franklin, London 1779.

\* (This letter has been several times incorrectly printed. It is here given from a genuine copy. The parties to whom it is addressed, are of the very first order, both in point of literary merit and amiable manners. E.)



## COMTE de GUERCHY

The Comte de Guerchy (1715-67) French Ambassador to England\* negotiated with Conway in the settlement relating to the liquidation of French Canada paper money and currency. He had particularly distinguished himself in command of his regiment at Fontenoy, where his valour and good fortune are noticed by Voltaire:-

"Guerchy n'est pas blessé, la vertu peut te plaire."

Walpole speaks very highly about him in his Memoirs:-

"The Comte de Guerchy was an amiable soldier; not to be named for parts, but far better qualified for his situation than his own Court believed, having a good knowledge of the world, a perpetual attention to his employment, consummate direction, much natural ease in his behaviour, with either no impertinence, or with thorough mastery of it, and a complaisance so properly applied that he was agreeable to all parties, and yet always well with the reigning ministry here. - - - - at the Court's first audience he told the King, with pleasant candour, that it was a proof of his master's intentions to preserve the peace, that he was sent over, who was no man of talents or intrigue."

On the 17th of September 1767 the Comte de Guerchy died at Paris occasioned by a former ill-cured complaint hastened by various mortifications he had received from his own countrymen and the neglect and ill-usage of his own Court. Walpole continues -

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\* 1763-67

"Certain it is that, his embassy being finished, he found nothing but coldness at home, and no hopes of reward or recompense for his services.- This cruelty being censured, pensions were granted to his widow and son."

As French Ambassador to England, Guerchy was very well liked. When he died in 1767 the Comtesse de Boufflers received the following letter from David Hume

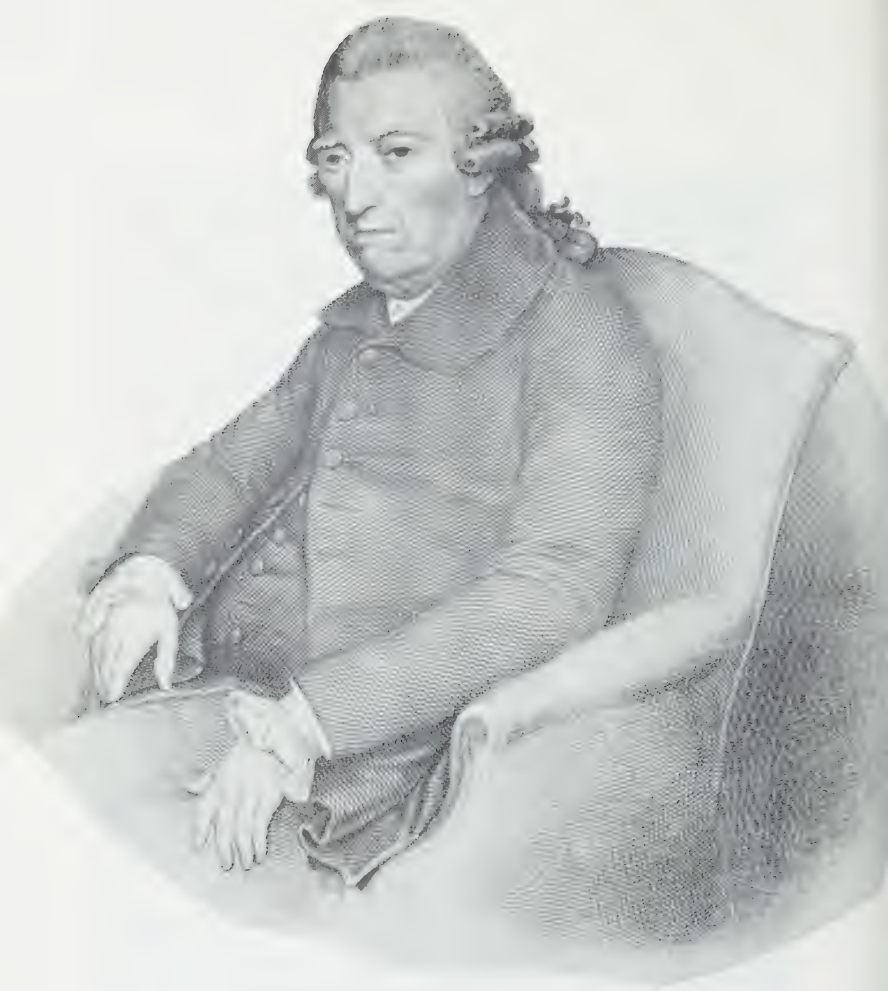
"But pray, who are you to give us as Ambassador from France, in place of M. de Guerchi, who has succeeded very well among us?"

In the Private Papers of James Boswell (VI 86-87) Lord Lyttleton told Boswell an entertaining story which explained Guerchy's popularity. Lord Chesterfield opened a remark to him in French when the Count interrupted, "Pardonnez moi Milord, Parlez vous Anglois?"



*M. de Regnier* *de Mangas*  
*Claude-Louis-François de Regnier, Comte de Guerchy, Marquis de Mangas, Chevalier des Ordres du Roy, lieutenant général de ses armées, Colonel  
 lieutenant de son Régiment d'Infanterie, Gouverneur des villes et Châteaux de  
 son Empire, seigneur d'Antiochia, empereur de la République Britannique 1766*

*Peint par M. de Saint-Amand, gravé par M. de Saint-Amand, et par M. de Saint-Amand.*



FRANCIS MASERES Esq. M.A. F.R.S.

*Quarter Baron of the Exchequer.*

## FRANCIS MASERES

Francis Maseres was born in London on October 15th, 1731 of Huguenot parentage. Feelings against Roman Catholics were indeed bitter amongst English Huguenots during the 18th century and Maseres from his early days was no exception to the rule. This prejudice without doubt handicapped his Canadian career.

At the University of Cambridge he graduated with distinction and in 1758 his first book was published entitled "A Dissertation on the Negative Sign in Algebra" which was a forerunner of other books on mathematics which continued to come from his pen throughout his life.

Maseres then turned his attention to the practice of law and was appointed attorney-general of Quebec which position he held from 1766 to 1769 under Governor Guy Carleton. A marginal note on a letter in the Hardwicke correspondence attributes his appointment to the influence of the Hon. Charles Yorke, attorney-general in the Rockingham administration. It also seems evident that a gentleman by the name of Fowler Walker who was the London agent for the British merchants in Quebec, and a close associate of Yorke's, had something to do with recommending Masseres' appointment. Thus in the last analysis he owed his position to the English merchant element in the colony, whose spokesman Maseres afterwards became, plus his Whig affiliation with the Rockingham administration.

The most important report on which Maseres was employed concerned the state of the laws and the administration of justice in the Province of Quebec. On August

28th, 1767, the Privy Council passed a resolution afterwards embodied in an order-in-council, requiring this report to be submitted by the Governor (Carleton), the Chief Justice (Hey) and the Attorney-General (Maseres) of the Province. This report was to include the defects of the judiciary system and the amendments which their opinion deemed necessary. Maseres was delegated to draw up this joint report. He bestowed upon it a great deal of time and attention. In February 1769 it was ready to be submitted. However, it failed to meet with the approval of either Carleton or Hey. It was afterwards printed by Maseres in his "Collection of Several Commissions". In essence it was an analysis of four different methods of settling the laws of this Province with the advantages and disadvantages of each set out in detail. It is unfortunate that Maseres was unable to make a decisive decision as to which of these methods was best for he merely placed before the Ministers the pros and cons of each plan. However, from his letters in 1768, he was inclined to prefer the method of reviving the whole of the French civil law. This was the method favoured by Carleton and had Maseres adopted this view strongly in his report it would undoubtedly have had Carleton's approval.

As attorney-general, Maseres' footsteps seemed dogged with persistent failure. He lost his case in two important trials. The first was for the recovery of the rum duties. The second his prosecution of the prisoners in the Walker affair. The military caste system at that time interfered considerably with civil progress in this Province because of a high-handed method of billeting officers, etc. This trial was reported in the very first booklet published in the English language in Lower Canada entitled "The Trial of Daniel Disney" printed by Brown and Gilmour in Quebec, 1767. It is purported to be written by Francis Maseres.



In 1775-1776 he printed what was perhaps the most important of all his contributions to Canadian history, the so called Quebec Papers. These volumes contain a considerable amount of original material of great value to the early history of British rule in Canada.

There is no doubt that notwithstanding his prejudice and failures, Francis Maseres was one of the ablest men who came out to Canada in the early days of British rule. W. Stewart Wallace in his book entitled *The Maseres Letters 1766-1768*, published by the University of Toronto library in 1919 states the following on Maseres' views that the Protestant religion should be the dominant religion in the province of Quebec: -

"On his views with regard to Canadian affairs, it is perhaps not possible to form a categorical judgment. They were never put to the practical test of experience. Nor is it fruitful to speculate on what would have happened had they been applied at the time of the passing of the Quebec Act. It is sometimes argued that, had the conciliatory policy of the Quebec Act not been adopted, Canada would have been lost to Great Britain during the American Revolutionary War, especially after the alliance of the revolting states with France. On the other hand, it is contended that, had the policy of Maseres been followed, some of the religious and constitutional problems which have vexed Canadian history might have been lessened or eliminated. But the decision of these, and similar, disputed questions may be left to the discernment of clairvoyants; it is not possible to determine what would have happened if something else had been different. What is certain is that Maseres' ideas were based on no superficial knowledge of the situation in Canada. The French that Maseres spoke was the French of the reign of Louis Quatorze, not the French of the Paris or Quebec of his own day; but he was one



of the very few officers of government able to converse freely with the new subjects, and his knowledge of their sentiments was consequently not inferior to that of others. Nor were his views insincere or unconsidered. Jeremy Bentham many years later hit off one of the outstanding features of Maseres' character when he described him as "one of the most honest lawyers England ever knew."

"There is no doubt that the moderation of his views exercised a beneficial restraint on the turbulent and headstrong politics of the English mercantile element in the colony, whose champion in some sense he was. Without this restraint faction might have risen much higher than it did in Canada during the troublous years of the American Revolution."

His courageous action as Crown Prosecutor against military lawlessness in this Province at the time provided, even in failure, a bulwark of protection for the civil population.

He was a firm believer in the British Empire and championed in more than one pamphlet the cause of reconciliation with the American colonists. On one of these copies mentioned by Tremaine (Considerations on the expediency of admitting representatives from the American colonies into the British House of Commons, London, 1770) there is a note in Maseres' own handwriting:-

"This pamphlet was sent to the late Mr. George Grenville in July 1770; and Mr. Thomas Whateley told me that Mr. Grenville had expressed an approbation of it. And it likewise had the approbation of Dr. Benjamin Franklin of Pennsylvania."

Francis Maseres was merely expressing the sentiments of such Whig compatriots of his day as Richmond, Conway and Carleton.

"Maseres, when Attorney-General for the Province of Quebec," says the historian Bibaud, (Jeune,) "denied that the King had any right to legislate for Canada without the co-operation of his Parliament," and according to Maseres, the French laws had been the laws of Canada from 1764 to 1774. The Advocate-General, Marriott, maintained the contrary. One can easily imagine the chances of promotion Maseres must have lost by thus rudely thwarting the plans of such a self-willed sovereign as was George III. Notwithstanding his anti-Catholic sentiments, the Roman Catholics in Canada also owe him their gratitude for his efforts to have the obnoxious Test Act modified. This Act prohibited Roman Catholics at that time to hold any public office whatsoever because they could not take the oath. A warm friend of popular liberties, he had another wrong, in the eyes of the King - he was a Whig. An implacable foe against arbitrary power he stood firm for the maintenance of order (witness the trial of Col. Disney) and public authority.

Francis Maseres died at the fulsome age of 93 years in his villa at Reigate in Surrey, England. On the marble tomb was inscribed in Latin the words "Quando ullum inveniam parem?". When shall we see his like?

French Canada owed the very existence of her Bishop to the Rockingham administration. Francis Maseres \* tells us that this permission to Mr. Olivier Briand,

".....to return to Quebeck, in the character of Bishop of the Province, was obtained from his Majesty's Ministers of State at that time, and particularly from the Marquis of Rockingham (who was considered as the principal Minister,) by the influence of the late celebrated Mr. Edmund Burke, who was at that time his Lordship's private Secretary, and who had been acquired, and ever after retained, a very great degree of his confidence."

\* \* \* \* \*

Maseres tells us that Olivier Briand was not born in the Province of Quebec but was a native of the Province of Britany in Old France. That the said Briand was asked

".....to come from Quebeck to England, in the winter of the foregoing year, 1765; and to go over to the North of France, in the month of January, or February, 1766, in order to be consecrated by some Bishops in France, as Bishop of Quebeck; which ceremony of Consecration was (as I was told,) performed at the City of Amiens in Picardy. And it was agreed amongst the King's Ministers of that time, that he should be permitted to return to Quebeck in the spring of the same year, 1766, to exercise his Episcopal functions in the Province, as Bishop of Quebeck."

\*From Occasional Essays on Various Subjects, Chiefly Political and Historial (by Francis Maseres) London, 1809.

Francis Maseres throughout his life continued his interest in Canadian affairs. He became known as the official spokesman for the English settler in Canada. The following letter from Benjamin Franklin to him, is of interest because it shows Maseres in his usual light of pleading for lost causes - this time for the British Empire Loyalists whose property was being confiscated and whose lives were being endangered by the then victorious American Patriots.\*

"Sir,

Passy, June 26, 1785.

I agree with you perfectly in the opinion, that though the contest has been hurtful to both our countries, yet the event, a separation, is better even for yours than success. The reducing and keeping us in subjection by an armed force would have cost you more than the dominion could be worth, and our slavery would have brought on yours. The ancient system of the British empire was a happy one, by which the colonies were allowed to govern and tax themselves. Had it been wisely continued, it is hard to imagine the degree of power and importance in the world that empire might have arrived at. All the means of growing greatness, extent of territory, agriculture, commerce, arts, population, were within its own limits, and therefore at its command. I used to consider that system as a large and beautiful porcelain vase. I lamented the measures that I saw likely to break it, and strove to prevent them; because once broken, I saw no probability of its being ever repaired. My endeavors did not succeed: we are broken, and the parts must now do as well as they can for themselves. We may still do well though separated. I have great hopes of our side, and good wishes for yours. The anarchy and confusion

you mention as supposed to prevail among us, exist only in your newspapers. I have authentic accounts which assure me that no people were ever better governed, or more content with their respective constitutions and governments than the present thirteen states of America. A little reflection may convince any reasonable man, that a government wherein the administrators are chosen annually by the free voice of the governed, and may also be recalled at any time if their conduct displeases their constituents, cannot be a tyrannical one, as your loyalists represent it; who at the same time inconsistently desire to return and live under it. And among an intelligent enlightened people as ours is, there must always be too numerous and too strong a party for supporting good government and the laws, to suffer what is called anarchy. This better account of our situation must be pleasing to your humanity, and therefore I give it you.

But we differ a little in our sentiments respecting the loyalists (as they call themselves) and the conduct of America towards them, which you think "seems actuated by a spirit of revenge; and that it would have been more agreeable to policy, as well as justice, to have restored their estates upon their taking the oaths of allegiance to the new governments." That there should still be some resentment against them in the breasts of those who have had their houses, farms, and towns so lately destroyed, and relations scalped under the conduct of these royalists, is not wonderful; though I believe the opposition given by many of their re-establishing among us is owing to a firm persuasion, that there could be no reliance on their oaths; and that the effect of receiving those people again would be an introduction of that very anarchy and confusion they falsely reproach us with. Even the example you propose of the English commonwealth's restoring the estates of the royalists after their being subdued, seems rather to countenance and encourage our acting differently,



as probably if the power, which always accompanies property, had not been restored to the royalists; if their estates had remained confiscated, and their persons had been banished, they could not have so much contributed to the restoration of kingly power, and the new government of the republic might have been more durable. The majority of examples in your history are on the other side of the question. All the estates in England and south of Scotland, and most of those possessed by the descendants of the English in Ireland, are held from ancient confiscations made of the estates of Caledonians and Britons, the original possessors in your island, or the native Irish, in the last century only. It is but a few months since that your parliament has, in a few instances, given up confiscations incurred by a rebellion suppressed forty years ago. The war against us was begun by a general act of parliament declaring all our estates confiscated, and probably one great motive to the loyalty of the royalists was the hope of sharing in these confiscations. They have played a deep game, staking their estates against ours; and they have been unsuccessful. But it is a surer game, since they had promises to rely on from your government of indemnification in case of loss; and I see your parliament is about to fulfil those promises. To this I have no objection, because though still our enemies, they are men; they are in necessity; and I think even an hired assassin has a right to his pay from his employer: it seems too more reasonable that the expense of paying these should fall upon the government who encouraged the mischief done, rather than upon us who suffered it; the confiscated estates making amends but for a very small part of that mischief: it is not therefore clear that our retaining them is chargeable with injustice.

I have hinted above, that the name loyalists was improperly assumed by these people. Royalists they may perhaps be called: but the true loyalists were the



people of America against whom they acted. No people were ever known more truly loyal, and universally so, to their sovereigns: the Protestant succession in the house of Hanover was their idol. Not a Jacobite was to be found from one end of the colonies to the other. They were affectionate to the people of England, zealous and forward to assist in her wars, by voluntary contributions of men and money, even beyond their proportion. The king and parliament had frequently acknowledged this by public messages, resolutions and reimbursements. But they were equally fond of what they esteemed their rights; and if they resisted when those were attacked, it was a resistance in favor of a British constitution, which every Englishman might share in enjoying who should come to live among them: it was resisting arbitrary impositions that were contrary to common right and to their fundamental constitutions, and to constant ancient usage. It was indeed a resistance in favor of the liberties of England, which might have been endangered by success in the attempt against ours; and therefore a great man in your parliament\*\* did not scruple to declare, he rejoiced that America had resisted! I, for the same reason, may add this very resistance to the other instances of their loyalty. I have already said, that I think it just you should reward those Americans who joined your troops in the war against their own country; but if ever honesty could be inconsistent with policy, it is so in this instance.

B. Franklin.

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\*Memoirs of the Life & Writings of Benjamin Franklin, etc. London, 1833.

\*\*The first Lord Chatham.





*The Duke and Duchess of Richmond*  
**LORD LIEUTENANT OF IRELAND &c &c**

4th Duke of Richmond, Governor-General of Canada  
from 1818-1819

After the death of his uncle in 1806 Charles Gordon Lennox became fourth Duke of Richmond. He was born in 1764 and succeeded General Sherbrooke in the government of Canada, on the 29th of July 1818. He had previously held the high and distinguished office of lord-lieutenant of Ireland, in which he had given much satisfaction to the people of that distracted country.

His administration of the government in Canada was not of a prolonged nature; but during the short time he held the reins of power, he did much to show the determined and energetic nature of his character; more particularly on the occasion when the legislature, having refused to grant any supplies to defray the civil list, he drew on the receiver-general on his own responsibility. Death cut short his career on the 27th of August, 1819, during a tour of inspection in Upper Canada, through the bite of a fox. He died in a village on the Ottawa and was buried in the English cathedral of Quebec.

The following letter written by a member of his staff, gives interesting details of his unfortunate death:-

"Quebec, September 6.- You will learn from the Quebec papers the melancholy event of the death of his Grace the Duke of Richmond; but notwithstanding what you will observe in them, it is affirmed a case of hydrophobia was the cause of this sad catastrophe, and it is asserted to have originated from the bite of a fox on the 28th of June. His grace having left this place about the 24th of June on an extensive tour through the Canadas, after his arrival at William Henry, one

hundred and thirty-five miles up the river, whilst walking about the village with his little dog Blucher, met a fox about the place, with which the dog appeared sociable, and they entered into play together. His grace seemed much pleased, and expressed something like a wish that the fox should be purchased. Accordingly, the hint was attended to by a servant belonging to the suite, who purchased the fox the same night. Next morning Sir. C. Saxton, seeing the fox tied to a tent pitched for the accommodation of the servants, and apparently much irritated from his restrained situation under a scorching sun, desired that the animal might be removed somewhere into the shade. He was then fixed to a wicket-gate in front of the house. His grace, on coming out in the morning, observing the fox, which he knew to be the same he had seen the day before, went up to him, saying 'Is this you, my little fellow?' and on offering to put out his hand to caress the fox, Sir Charles Saxton touched the duke on the shoulder to prevent it, apprising his grace at the same time of the irritation of the fox, and that he might bite. 'No, no' said his grace, 'the little fellow will not bite me!' and putting out his hand, the fox snapped and made three scratches on the back of his hand, which drew blood. His grace, quickly drawing it back, said, 'Indeed, my friend, you bite very hard.' The next morning, his grace found an uneasy sensation in his shoulder; but nothing further occurred till near returning from his tour; when at the new back settlement of Perth, on the 22nd or 23rd of August, after having returned from walking, his grace desired his servant to make two glasses of wine and water for himself and Major Bowles. As soon as the duke took the wine and water, he observed to the major that he felt a strange sensation on drinking it. On the way from Perth towards the Ottawa river, some of the attendants observed his irritability, and extreme aversion to water on crossing the smallest streamlets in the woods; and they could scarcely get

him along. On his approaching a small hut on the Ottawa river, rather than go into a house close to the river, he turned short and ran into a barn; at another time he ran from them into the woods, as if to shun the sight of water. His disorder was now rapidly increasing; but on his arrival within six miles this side of the new-named place Richmond, after suffering most excruciating torments, he died, at eight o'clock on Saturday morning, the 28th of August."

The following is an extract from the Montreal Herald of that day : -

"-----In early life, devoted from choice to the profession of arms, he evinced that most valuable of all qualities in an officer, the power of securing the attachment of those under him. And when he afterwards came to be employed in the more difficult and complex duties of a ruler, he performed the office so as to secure him the esteem and confidence of his sovereign, and the ardent attachment of those people over whom he was placed. A striking instance of this was evinced in his appointment as lord-lieutenant of Ireland. At a time when contending parties, and discontented individuals distracted the public mind in that country, his grace's behaviour soon produced the happiest result. At the present time, though twelve years have elapsed since his appointment to that office, the anniversary of the arrival of the Duke of Richmond in Ireland, still continues to be celebrated in that country with the warmest enthusiasm and most gratifying recollection of the event. And this we consider a higher tribute to his memory than "storied urn or monumental epitaph" can ever perpetuate."

It was resolved by the magistrates at Montreal, in



consequence of the death of this lamented nobleman, that the public should be requested to wear mourning thirty days."









